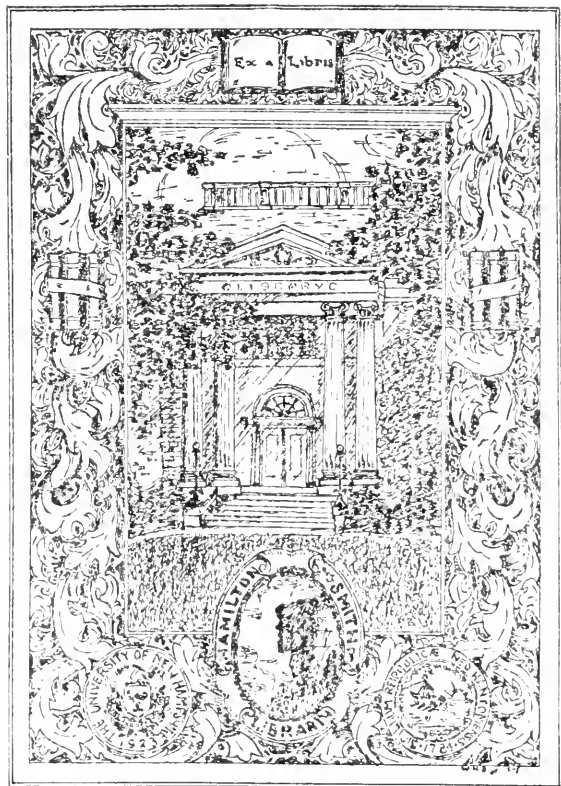




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THE
L A W S
OF THE
STATE OF NEW-HAMPSHIRE;

WITH THE
CONSTITUTIONS
OF THE
UNITED STATES AND OF THE STATE PREFIXED.

to which is added

An Appendix;

CONTAINING THE DECLARATION OF INDEPENDENCE, AND SUCH OF
THE REPEALED LAWS AS ARE NECESSARY TO BE KNOWN.

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PUBLISHED BY AUTHORITY.  
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EXETER :

PRINTED BY C. NORRIS & CO. FOR THE STATE.

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1815.

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ADVERTISEMENT.

THIS edition comprehends, in the body of the work, all the general and publick statutes now in force. There are no temporary laws of this description.

Acts respecting turnpike roads—laying out or establishing particular highways—granting to particular towns the power of taxing their lands for repairing roads—incorporating towns, academies, religious societies, &c.—altering the times of holding annual meetings—creating corporations, such as banks, insurance companies, library associations, &c.—respecting particular bridges, canals, ferries, lotteries, &c.—granting to particular persons license to sell lands, to review actions, &c. &c. are not published in this edition, as they do not regard the whole community ; but are special, operating on particular persons or private concerns.

The principal object of the appendix is to furnish all the acts, and parts of acts, which relate to the assessing and collecting of taxes on the lands of non-resident proprietors. Experience has shewn the utility of such a publication. But in many other cases it is necessary to have recourse to repealed laws—they decide upon all rights and titles which vested at the time they were in force. Such rights and titles daily come in question in courts of law.—They moreover assist materially in the construction of later statutes, and serve to shew the history and spirit of the times, and the progressive improvements in legislation. It behoves both legislators and judges diligently to study those ancient records.

As the publication of the whole of the repealed laws was not intended by the legislature in this edition, a selection has been made, which it is hoped, will be found to embrace the most useful.

Should any be found to have been omitted, they may be added to the acts of particular sessions, as they occur.

Exeter, June 1, 1815.

THE
CONSTITUTION
OF
NEW-HAMPSHIRE,

APPROVED BY THE PEOPLE, AND ESTABLISHED BY CONVENTION.

FIFTH OF SEPTEMBER, 1792.*

PART FIRST.

BILL OF RIGHTS.

ARTICLE I. **A**LL men are born equally free and independent; therefore all government of right originates from the people, is founded in consent, and instituted for the general good.

II. All men have certain natural, essential and inherent rights—among which are the enjoying and defending life and liberty, acquiring, possessing and protecting property; and in a word, of seeking and obtaining happiness.

III. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to ensure the protection of others; and without such an equivalent, the surrender is void.

IV. Among the natural rights, some are in their very nature unalienable; because no equivalent can be given or received for them: of this kind are the *rights of conscience*.

V. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason; and no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments, or persuasion: provided he doth not disturb the publick peace, or disturb others in their religious worship.

* The former constitution having been approved by the people, was established by Convention 31st October, 1783, and took effect on the first Wednesday of June, 1784.

VI. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection ; and as the knowledge of these is most likely to be propagated through a society, by the institution of the publick worship of the Deity, and of publick instruction in morality and religion ; therefore, to promote those important purposes, the people of this state have a right to empower, and do hereby fully empower the legislature, to authorise, from time to time, the several towns, parishes, bodies corporate or religious societies, within this state, to make adequate provision, at their own expense, for the support and maintenance of publick Protestant teachers of piety, religion and morality.

Provided notwithstanding, That the several towns, parishes, bodies corporate, or religious societies, shall at all times have the exclusive right of electing their own publick teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians, demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law : And no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry ; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

VII. The people of this state have the sole and exclusive right of governing themselves as a free, sovereign and independent state ; and do, and forever hereafter shall exercise and enjoy every power, jurisdiction and right, pertaining thereto, which is not, or may not hereafter be by them expressly delegated to the United States of America in congress assembled.

VIII. All power residing originally in, and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

IX. No office or place whatsoever in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

X. Government being instituted for the common benefit, protection and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men ;

therefore, whenever the ends of government are perverted, and publick liberty manifestly endangered, and all other means of redress are ineffectual, the people may and of right ought to reform the old, or establish a new government. The doctrine of nonresistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

XI. All elections ought to be free, and every inhabitant of the state, having the proper qualifications, has equal right to elect and be elected into office.

XII. Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to publick uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controlable by any other laws than those to which they, or their representative body, have given their consent.

XIII. No person, who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

XIV. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely and without any denial; promptly and without delay, conformably to the laws.

XV. No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally described to him; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to himself; to meet the witnesses against him, face to face; and to be fully heard in his defence, by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

XVI. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment, (excepting for the government of the army and navy, and the militia in actual service) without trial by jury.

XVII. In criminal prosecutions, the trial of facts, in the vicinity where they happen, is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

XVIII. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason; where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences: For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate mankind.

XIX. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial, in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order, in a warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued, but in cases, and with the formalities, prescribed by law.

XX. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by jury, and this method of procedure shall be held sacred, unless in cases arising on the high seas and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it.

XXI. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken, that none but qualified persons should be appointed to serve; and such ought to be* fully compensated for their travel, time and attendance.

XXII. The LIBERTY OF THE PRESS is essential to the security of freedom in a state: It ought therefore to be inviolably preserved.

* *Be* is omitted in the original.

XXIII. Retrospective laws are highly injurious, oppressive and unjust. No such laws therefore should be made, either for the decision of civil causes, or the punishment of offences.

XXIV. A well regulated militia is the proper, natural and sure defence of a state.

XXV. Standing armies are dangerous to liberty, and ought not to be raised, or kept up without the consent of the legislature.

XXVI. In all cases and at all times, the military ought to be under strict subordination to, and governed by the civil power.

XXVII. No soldier in time of peace, shall be quartered in any house, without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No subsidy, charge, tax, impost, or duty, shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body.

XXIX. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXX. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

XXXI. The legislature shall assemble for the redress of publick grievances, and for making such laws as the publick good may require.

XXXII. The people have a right in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

XXXIII. No magistrate, or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXXIV. No person can in any case be subjected to law-martial, or to any pains or penalties by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXXV. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well; subject however to such limitations on account of age, as may be provided by the constitution of the state: and that they should have honourable salaries ascertained and established by standing laws.

XXXVI. Economy being a most essential virtue in all states, especially in a young one; no pension shall be granted, but in consideration of actual services; and such pensions ought to be granted with great caution by the legislature, and never for more than one year at a time.

XXXVII. In the government of this state, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from, and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connexion that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

XXXVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought therefore to have a particular regard to all those principles in the choice of their officers and representatives: and they have a right to require of their law-givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of government.



PART SECOND.

FORM OF GOVERNMENT.

THE people inhabiting the territory formerly called the Province of New-Hampshire, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign and independent body-politic, or state, by the name of the *State of New-Hampshire*.

NEW-HAMPSHIRE.

GENERAL COURT.

The supreme legislative power, within this state, shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

The senate and house shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary ; and shall dissolve, and be dissolved seven days next preceding the said first Wednesday of June ; and shall be stiled *the General Court of New-Hampshire*.

The general court shall forever have full power and authority to erect and constitute judicatories, and courts of record, or other courts, to be holden in the name of the state, for the hearing, trying and determining all manner of crimes, offences, pleas, processes, plaints, actions, causes, matters and things whatsoever, arising or happening within this state, or between or concerning persons inhabiting or residing, or brought within the same ; whether the same be criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real, personal, or mixed ; and for the awarding and issuing execution thereon. To which courts and judicatories, are hereby given and granted, full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties, or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof ; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within this state ; such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for ; and to set forth the several duties, powers and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations as shall be respectively administered unto them, for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution ; and also to impose fines, mulcts, imprisonments and other punishments ; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within, the said state ; and upon all estates within the same ; to be issued and disposed of by warrant, under the hand of the governor of this state for the time being, with

the advice and consent of the council, for the publick service, in the necessary defence and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be in force within the same.

And while the publick charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practised ; in order that such assessments may be made with equality, there shall be a valuation of the estates within the state taken anew once in every five years at least, and as much oftener as the general court shall order.

No member of the general court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the legislature ; and upon due proof thereof, such member shall forfeit his seat in the legislature.

The doors of the galleries, of each house of the legislature, shall be kept open to all persons who behave decently, except when the welfare of the state, in the opinion of either branch, shall require secrecy.

HOUSE OF REPRESENTATIVES.

There shall be, in the legislature of this state, a representation of the people, annually elected and founded upon principles of equality : and in order that such representation may be as equal as circumstances will admit, every town, parish, or place entitled to town privileges, having one hundred and fifty rateable male polls, of twenty one years of age and upwards, may elect one representative ; if four hundred and fifty rateable polls, may elect two representatives ; and so proceeding in that proportion, making three hundred such rateable polls the mean increasing number, for every additional representative.

Such towns, parishes, or places, as have less than one hundred and fifty rateable polls, shall be classed by the general court for the purpose of choosing a representative, and seasonably notified thereof. And in every class, formed for the abovementioned purpose, the first annual meeting shall be held in the town, parish, or place, wherein most of the rateable polls reside ; and afterwards in that which has the next highest number ; and so on annually by rotation, through the several towns, parishes, or places, forming the district.

Whenever any town, parish, or place, entitled to town privileges as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish, or place, very inconvenient, the general court may, upon application of a majority of the voters in such town, parish, or place,

issue a writ for their electing and sending a representative to the general court.

The members of the house of representatives shall be chosen annually in the month of March, and shall be the second branch of the legislature.

All persons qualified to vote in the election of senators, shall be entitled to vote within the district where they dwell, in the choice of representatives. Every member of the house of representatives shall be chosen by ballot; and for two years at least, next preceding his election, shall have been an inhabitant of this state; shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one half of which to be a freehold, whereof he is seized in his own right; shall be at the time of his election an inhabitant of the town, parish or place he may be chosen to represent, shall be of the protestant religion, and shall cease to represent such town, parish or place, immediately on his ceasing to be qualified as aforesaid.

The members of both houses of the legislature shall be compensated for their services out of the treasury of the state, by a law made for that purpose; such members attending seasonably, and not departing without license. All intermediate vacancies in the house of representatives, may be filled up from time to time, in the same manner as annual elections are made.

The house of representatives shall be the grand inquest of the state; and all impeachments made by them, shall be heard and tried by the senate.

All money bills shall originate in the house of representatives; but the senate may propose, or concur with amendments, as on other bills.

The house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the house of representatives shall be a quorum for doing business; but when less than two thirds of the representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the house of representatives or senate, shall be arrested or held to bail on mean process, during his going to, returning from, or attendance upon the court.

The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house ; and shall be judge of the returns, elections and qualifications of its members, as pointed out in this constitution. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly and contemptuous behaviour, or by threatening or ill treating any of its members ; or by obstructing its deliberations ; every person guilty of a breach of its privileges, in making arrest for debt, or by assaulting any member during his attendance at any session ; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house ; in assaulting any witness or other person, ordered to attend, by, and during his attendance upon* the house ; or in rescuing any person arrested by order of the house, knowing them to be such.—The senate, governor and council, shall have the same powers in like cases : provided, that no imprisonment by either, for any offence, exceed ten days.

The journals of the proceedings, and all publick acts of both houses of the legislature, shall be printed and published immediately after every adjournment or prorogation ; and upon motion made by any one member, the yeas and nays upon any question shall be entered on the journal : And any member of the senate or house of representatives, shall have a right, on motion made at the time for that purpose, to have his protest or dissent, with the reasons, against any vote, resolve, or bill passed, entered on the journal.

SENATE.

The senate shall consist of twelve members, who shall hold their office for one year from the first Wednesday of June next ensuing their election.

And that the state may be equally represented in the senate, the legislature shall, from time to time, divide the state into twelve districts, as nearly equal as may be without dividing towns and unincorporated places ; and in making this division, they shall govern themselves by the proportion of direct taxes paid by the said districts, and timely make known to the inhabitants of the state the limits of each district.

The freeholders and other inhabitants of each district, qualified as in this constitution is provided, shall annually give in their votes for a senator, at some meeting holden in the month of March.

The senate shall be the first branch of the legislature ; and the senators shall be chosen in the following manner, viz. every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this state, of twenty-one years of age and up-

* In the original it is attendance *of* the house.

wards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senator in the district whereof he is a member.

Provided nevertheless, That no person shall be capable of being elected a senator, who is not of the *protestant religion*, and seized of a freehold estate in his own right, of the value of two hundred pounds, lying within this state, who is not of the age of thirty years, and who shall not have been an inhabitant of this state for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

And every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this state, in the town, parish and plantation, where he dwelleth and hath his home.

And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose shall be holden annually in the month of March, at such places respectively therein as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this constitution.

The meetings for the choice of governor, council, and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and parishes present, and qualified to vote for senators; and shall, in said meetings, in presence of the said selectmen, and of the town clerk in said meetings, sort and count the said votes, and make a publick declaration thereof, with the name of every person voted for, and the number of votes for each person; and the town clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof: And the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which such town or parish shall lie, thirty days at least before the first Wednesday of June, or to the secretary of the

state at least twenty days before the said first Wednesday of June : and the sheriff of each county, or his deputy, shall deliver all such certificates, by him received, into the secretary's office, at least twenty days before the first Wednesday of June.

And that there may be a due meeting of senators on the first Wednesday of June annually, the governor, and a majority of the council for the time being, shall as soon as may be, examine the returned copies of such records, and fourteen days before the first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators, by a majority of votes, to attend and take their seats on that day.

Provided nevertheless, That for the first year the said returned copies shall be examined by the president, and a majority of the council then in office ; and the said president shall in like manner notify the persons elected, to attend and take their seats accordingly.

And in case there shall not appear to be a senator elected by a majority of votes, for any district, the deficiency shall be supplied in the following manner, viz. the members of the house of representatives, and such senators as shall be declared elected, shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the senator wanted for such district ; and in this manner all such vacancies shall be filled up in every district of the state, and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be after such vacancies happen.

The senate shall be final judges of the elections, returns and qualifications of their own members, as pointed out in this constitution.

The senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

Provided nevertheless, That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day, or at such place.

The senate shall appoint their president and other officers, and determine their own rules of proceedings : and not less than seven members of the senate shall make a quorum for doing business ; and when less than eight senators shall be present, the assent of five at least, shall be necessary to render their acts and proceedings valid.

The senate shall be a court, with full power and authority to hear, try and determine, all impeachments made by the house of repre-

sentatives against any officer or officers of the state, for bribery, corruption, mal-practice or mal-administration, in office ; with full power to issue summons, or compulsory process, for convening witnesses before them : but previous to the trial of any such impeachment, the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question, according to evidence. And every officer, impeached for bribery, corruption, mal-practice or mal-administration in office, shall be served with an attested copy of the impeachment, and order of senate thereon, with such citation as the senate may direct, setting forth the time and place of their sitting to try the impeachment ; which service shall be made by the sheriff, or such other sworn officer as the senate may appoint, at least fourteen days previous to the time of trial ; and such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached (if he shall appear) full liberty of producing witnesses and proofs, and of making his defence, by himself and counsel, and may also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his nonappearance notwithstanding ; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial. Their judgment however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honour, trust, or profit, under this state ; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment and punishment, according to the laws of the land.

Whenever the governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate, but have no vote therein.

EXECUTIVE POWER.

GOVERNOR.

There shall be a supreme executive magistrate, who shall be styled the Governor of the State of New-Hampshire, and whose title shall be *His Excellency*.

The governor shall be chosen annually in the month of March ; and the votes for governor shall be received, sorted, counted, certified, and returned, in the same manner as the votes for senators ; and the secretary shall lay the same before the senate and house of representatives, on the first Wednesday of June, to be by them examined, and in case of an election by a majority of votes through the state, the choice shall be by them declared and published.

And the qualifications of electors of the governor shall be the same as those for senators ; and if no person shall have a majority of votes, the senate and house of representatives shall by joint ballot

elect one of the two persons having the highest number of votes, who shall be declared governor.

And no persons shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and unless he shall be of the age of thirty years, and unless he shall at the same time have an estate of the value of five hundred pounds, one half of which shall consist of a freehold in his own right within this state, and unless he shall be of the protestant religion.

In cases of disagreement between the two houses with regard to the time or place of adjournment or prorogation, the governor, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days at any one time, as he may determine the publick good may require, and he shall dissolve the same seven days before the said first Wednesday of June.

And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause, whereby dangers may arise to the health or lives of the members from their attendance, the governor may direct the session to be holden at some other the most convenient place within the state.

Every bill which shall have passed both houses of the general court, shall, before it become a law, be presented to the governor; if he approve, he shall sign it, but if not, he shall return it with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it; if after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with such objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons, voting for or against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

Every resolve shall be presented to the governor, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

All judicial officers, the attorney general, solicitors, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place, unless a majority of the council agree thereto. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council, who made the same.

The captains and subalterns in the respective regiments, shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on receipt of such recommendation.

Whenever the chair of the governor shall become vacant, by reason of his death, absence from the state, or otherwise, the president of the senate shall, during such vacancy, have and exercise all the powers and authorities which, by this constitution the governor is vested with, when personally present; but when the president of the senate shall exercise the office of governor, he shall not hold his office in the senate.

The governor, with advice of council, shall have full power and authority in the recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the state should require the same.

The governor of this state for the time being, shall be commander in chief of the army and navy, and all the military forces of the state, by sea and land; and shall have full power by himself, or by any chief commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and for the special defence and safety of this state, to assemble in martial array, and put in warlike posture the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this state; and also to kill, slay, destroy if necessary, and conquer by all fitting ways, enterprize and means, all and every such person and persons as shall at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment or annoyance of this state; and to use and exercise over the army and navy, and over the militia in actual service, the law martial in time of war, invasion, and also in rebellion, declared by

the legislature to exist as occasion shall necessarily require: and surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering or annoying this state; and in fine, the governor hereby is entrusted with all other powers incident to the office of captain general and commander in chief and admiral, to be exercised agreeably to the rules and regulations of the constitution and the laws of the land: provided, that the governor shall not at any time hereafter, by virtue of any power by this constitution granted or hereafter to be granted to him by the legislature, transport any of the inhabitants of this state, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law martial in any case, without the advice and consent of the council.

The power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the governor, by and with the advice of the* council: but no charter of pardon granted by the governor with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

No officer duly commissioned to command in the militia shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the state for the time being.

The commanding officers of the regiments shall appoint their adjutants and quarter-masters; the brigadiers, their brigade-majors; the major-generals, their aids; the captains and subalterns, their non-commissioned officers.

The division of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this state, until the same shall be altered by some future law.

No monies shall be issued out of the treasury of this state and disposed of (except such sums as may be appropriated for the redemption of bills of credit, or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, by and with the advice and consent of the council, for the necessary support and defence of this state, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

* *The* is omitted in the original.

All publick boards, the commissary-general, all superintending officers of publick magazines and stores belonging to this state, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially and without requisition, and at other times when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon, with their appendages, and all small arms with their accoutrements, and of all other publick property under their care respectively ; distinguishing the quantity and kind of each, as particularly as may be ; together with the condition of such forts and garrisons : and the commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or barbour adjacent.

The governor and council shall be compensated for their services, from time to time, by such grants as the general court shall think reasonable.

Permanent and honourable salaries shall be established by law, for the justices of the superior court.

COUNCIL.

There shall be annually elected by ballot five counsellors, for advising the governor in the executive part of government. The freeholders and other inhabitants in each county, qualified to vote for senators, shall some time in the month of March, give in their votes for one counsellor ; which votes shall be received, sorted, counted, certified and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of June.

And the person having a majority of votes in any county, shall be considered as duly elected a counsellor : but if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of those two, shall elect by joint ballot, the counsellor wanted for such county : and the qualifications for counsellors shall be the same as for senators.

If any person thus chosen a counsellor, shall be elected governor or member of either branch of the legislature, and shall accept the trust ; or if any person elected a counsellor, shall refuse to accept the office ; or in case of the death, resignation, or removal of any counsellor out of the state ; the governor may issue a precept for the election of a new counsellor in that county where such vacancy shall happen ; and the choice shall be in the same manner as before directed : and the governor shall have full power and authority to convene the council, from time to time, at his discretion ; and

with them, or the majority of them, may and shall from time to time hold a council for ordering and directing the affairs of the state according to the laws of the land.

The members of the council may be impeached by the house and tried by the senate, for bribery, corruption, mal-practice, or mal-administration.

The resolutions and advice of the council shall be recorded by the secretary in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time by either house of the legislature; and any member of the council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

The legislature may, if the publick good shall hereafter require it, divide the state into five districts, as nearly equal as may be, governing themselves by the number of rateable polls, and proportion of publick taxes; each district to elect a counsellor: and in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

And whereas the elections appointed to be made by this constitution on the first Wednesday of June annually by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day, until the same be completed; and the order of the elections shall be as follows: the vacancies in the senate (if any) shall be first filled up: the governor shall then be elected, provided there shall be no choice of him by the people: and afterwards the two houses shall proceed to fill up the vacancy (if any) in the council.

SECRETARY, TREASURER, COMMISSARY-GENERAL, &c.

The secretary, treasurer, and commissary-general, shall be chosen by joint ballot of the senators and representatives assembled in one room.

The records of the state shall be kept in the office of the secretary; and he shall attend the governor and council, the senate and representatives, in person or by deputy, as they may require.

The secretary of the state shall at all times have a deputy, to be by him appointed; for whose conduct in office he shall be responsible: and in case of the death, removal, or inability, of the secretary; his deputy shall exercise all the duties of the office of secretary of this state, until another shall be appointed.

The secretary before he enters upon the business of his office, shall give bond with sufficient sureties, in a reasonable sum, for the use of the state, for the punctual performance of his trust.

COUNTY TREASURER, &c.

The county treasurers and registers of deeds, shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practised, and the laws of the state.

Provided nevertheless, The legislature shall have authority to alter the manner of certifying the votes and the mode of electing those officers ; but not so as to deprive the people of the right they now have of electing them.

And the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary ; each district to elect a register of deeds : and before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.

JUDICIARY POWER.

The tenure that all commissioned officers shall have by law in their offices, shall be expressed in their respective commissions— all judicial officers duly appointed, commissioned and sworn, shall hold their offices during good behaviour, excepting those concerning whom there is a different provision made in this constitution : *Provided nevertheless,* the governor,* with consent of counsel, may remove them upon the address of both houses of the legislature.

Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the superior court, upon important questions of law and upon solemn occasions.

In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void at the expiration of five years from their respective dates, and upon the expiration of any commission the same may if necessary be renewed, or another person appointed, as shall most conduce to the well being of the state.

* This is *president* in the original.

All causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court until the legislature shall by law make other provision.

The general court are empowered to give to justices of the peace, jurisdiction in civil causes, when the damages demanded shall not exceed *four pounds*, and title of real estate is not concerned ; but with right of appeal to either party, to some other court, so that a trial by jury in the last resort may be had.

No person shall hold the office of judge of any court, or judge of probate, or sheriff of any county, after he has attained the age of seventy years.

No judge of any court or justice of the peace, shall act as attorney, or be of counsel to any party, or originate any civil suit, in matters which shall come, or be brought before him as judge, or justice of the peace.

All matters relating to the probate of wills and granting letters of administration, shall be exercised by the judges of probate, in such manner as the legislature have directed, or may hereafter direct : and the judges of probate shall hold their courts at such place or places, on such fixed days, as the conveniency of the people may require, and the legislature from time to time appoint.

No judge, or register of probate, shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or register.

CLERKS OF COURT.

The judges of the courts (those of probate excepted) shall appoint their respective clerks, to hold their office during pleasure : and no such clerk shall act as an attorney, or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

ENCOURAGEMENT OF LITERATURE, &c.

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government ; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end ; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools ; to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufac-

tures, and natural history of the country ; to countenance and inculcate the principles of humanity and general benevolence, publick and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments among the people.

OATH AND SUBSCRIPTIONS ; EXCLUSION FROM OFFICES ; COMMISSIONS ; WRITS ; CONFIRMATION OF LAWS ; HABEAS CORPUS ; THE ENACTING STILE ; CONTINUANCE OF OFFICERS ; PROVISION FOR A FUTURE REVISION OF THE CONSTITUTION, &c.

Any person chosen governor, counsellor, senator, or representative, military or civil officer, (town officers excepted) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B. do solemnly swear, that I will bear faith and true allegiance to the State of New-Hampshire, and will support the constitution thereof. *So help me God.*

I, A. B. do solemnly and sincerely swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as according to the best of my abilities, agreeably to the rules and regulations of this constitution, and the laws of the State of New-Hampshire. *So help me God.*

Any person having taken and subscribed the oath of allegiance, and the same being filed in the secretary's office, he shall not be obliged to take said oath again.

Provided always, When any person chosen or appointed as aforesaid, shall be of the denomination called quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such person shall take and subscribe them, omitting the word *swear*, and likewise the words *so help me God*, subjoining instead thereof, *this I do under the pains and penalties of perjury.*

And the oaths or affirmations shall be taken and subscribed by the governor, before the president of the senate, in presence of both houses of the legislature, and by the senators and representatives first elected under this constitution, as altered and amended, before the president of the state, and a majority of the council then in office, and forever afterwards before the governor and council for the time being ; and by all other officers, before such persons and in such manner as the legislature shall from time to time appoint.

All commissions shall be in the name of the State of New-Hampshire, signed by the governor and attested by the secretary, or his deputy, and shall have the great seal of the state affixed thereto.

All writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the State of New-Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear test of some other justice of the court to which the same shall be returnable; and be signed by the clerk of such court.

All indictments, presentments, and informations, shall conclude, *against the peace and dignity of the state.*

The estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way; nor shall any article which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

All the laws which have heretofore been adopted, used and approved, in the province, colony, or State of New-Hampshire, and usually practised on in the courts of law, shall remain and be in full force until altered and repealed by the legislature; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution: provided that nothing herein contained, when compared with the 23d article in the bill of rights, shall be construed to affect the laws already made respecting the persons, or estates, of absentees.

The privilege and benefit of the habeas corpus, shall be enjoyed in this state, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

The enacting stile in making and passing acts, statutes, and laws, shall be—*Be it enacted by the senate and house of representatives, in general court convened.*

No governor, or judge of the supreme judicial court shall hold any office or place under the authority of this state, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the office* of justice of the peace throughout the state; nor shall they hold any place or office, or receive any pension or salary, from any other state, government, or power whatever.

No person shall be capable of exercising at the same time, more than one of the following offices within this state, viz. judge

* In the original *offices.*

of probate, sheriff, register of deeds ; and never more than two offices of profit, which may be held by appointment of the governor, or governor and council, or senate and house of representatives, or superior or inferior courts ; military offices and offices of justices of the peace excepted.

No person holding the office of judge of any court (except special judges,) secretary, treasurer of the state, attorney-general, commissary-general, military officers receiving pay from the continent or this state (excepting officers of the militia, occasionally called forth on an emergency) register of deeds, sheriff, or officers of the customs, including naval officers, collectors of excise and state and continental taxes, hereafter appointed and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of congress, or any person holding any office under the United States, shall at the same time hold the office of governor, or have a seat in the senate, or house of representatives, or council ; but his being chosen and appointed to, and accepting the same, shall operate as a resignation of their seat in the chair, senate, or house of representatives, or council ; and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or house of representatives.

No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance, under this government, who in the due course of law has been convicted of bribery or corruption in obtaining an election or appointment.

In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver at six shillings and eight pence per ounce.

To the end that there may be no failure of justice, or danger to the state by the alterations and amendments made in the constitution, the general court is hereby fully authorised and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.*

It shall be the duty of the selectmen and assessors, of the several towns and places in this state, in warning the first annual meetings for the choice of senators, after the expiration of seven years from the adoption of this constitution as amended, to insert expressly in the warrant, this purpose among the others for the meeting, to wit, to take the sense of the qualified voters on the subject of a revision of the constitution ; and the meeting being warned accordingly (and not otherwise) the moderator shall take the sense of the qualified voters present, as to the necessity of a revision ; and a return of the number of votes for and against such necessity, shall be made by the clerk, sealed up and directed to the general court, at their

* See act of 14th Dec. 1792

then next session ; and if it shall appear to the general court by such return, that the sense of the people of the state has been taken, and that in the opinion of the majority of the qualified voters in the state, present and voting at said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general court to call a convention for that purpose, otherwise the general court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned. The delegates to be chosen in the same manner, and proportioned as the representatives to the general court ; provided that no alterations shall be made in this constitution, before the same shall be laid before the towns and unincorporated places, and approved by two thirds of the qualified voters present and voting on the subject.

And the same method of taking the sense of the people, as to a revision of the constitution, and calling a convention for that purpose, shall be observed afterwards, at the expiration of every seven years.

This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land : and printed copies thereof shall be prefixed to the books containing the laws of this state, in all future editions thereof.

CONSTITUTION
OF THE
UNITED STATES,

AS PROPOSED BY THE CONVENTION, HELD AT PHILADELPHIA, 17th
SEPTEMBER, 1787,

AND

SINCE RATIFIED BY THE SEVERAL STATES WITH THE
SEVERAL AMENDMENTS THERETO.

We the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECT. 1. **A**LL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

SECT. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to ser-

vice for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New-Hampshire* shall be entitled to choose three—*Massachusetts* eight—*Rhode-Island* and *Providence Plantations* one—*Connecticut* five—*New-York* six—*New-Jersey* four—*Pennsylvania* eight—*Delaware* one—*Maryland* six—*Virginia* ten—*North-Carolina* five—*South-Carolina* five—and *Georgia* three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECT. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president protempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside : and no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honour, trust or profit under the United States ; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

SECT. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof ; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business ; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy ; and the yeas and nays of the members of either house on any question, shall, at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECT. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same ; and for any speech

or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time ; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SECT. 7. All bills for raising revenue shall originate in the house of representatives ; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States: if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States ; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. 8. The congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts, and excises shall be uniform throughout the United States ;

To borrow money on the credit of the United States ;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes ;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States ;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures ;

To provide for the punishment of counterfeiting the securities and current coin of the United States ;

To establish post-offices and post roads ;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors, the exclusive right to their respective writings and discoveries ;

To constitute tribunals inferior to the supreme court ;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations ;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water ;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions ;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress ;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings ;—And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECT. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the publick safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all publick money shall be published from time to time.

No title of nobility shall be granted by the United States:—and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SECT. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws

shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECT. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows :

Each state shall appoint, in such manner, as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress : but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each ; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president ; and if no person have a majority, then from the five highest on the list, the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote ; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.*

The congress may determine the time of choosing the electors, and the day on which they shall give their votes ; which day shall be the same throughout the United States.

* See 12th Amendment.

No person, except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president ; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president ; and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished, during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation :—" I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

SECT. 2. The president shall be commander in chief of the army and navy of the United States ; and of the militia of the several states, when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur ; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other publick ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies, that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECT. 3. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient : he may on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper ; he shall receive ambassadors and other publick ministers ; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECT. 4. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors.

ARTICLE III.

SECT. 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECT. 2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States and treaties made, or which shall be made under their authority ; to all cases affecting ambassadors, other publick ministers and consuls ; to all cases of admiralty and maritime jurisdiction ; to controversies to which the United States shall be a party ; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other publick ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury ; and such trial shall be held in the state where the said crimes shall have been committed ; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SECT. 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECT. 1. Full faith and credit shall be given in each state to the publick acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECT. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labour in one state, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

SECT. 3. New states may be admitted by the congress into this union : but no new state shall be formed or erected within the jurisdiction of any other state ; nor any state be formed by the junction of two or more states, or parts of states without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules, and regulations respecting the territory or other property belonging to the United States ; and nothing in this constitution, shall be so construed as to prejudice any claims of the United States, or, of any particular state.

SECT. 4. The United States shall guarantee to every state in this union, a republican form of government ; and shall protect each of them against invasion ; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the congress; *provided*, That no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution: But no religious test shall ever be required as a qualification to any office or publick trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

AMENDMENTS.

Article the first. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Article the second. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Article the third. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Article the fourth. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article the fifth. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case, to be witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

Article the sixth. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

Article the seventh. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury, shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Article the eighth. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article the ninth. The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

Article the tenth. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Article the eleventh. The judicial power of the United States shall not be construed to extend to any suit in law, or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

Article the twelfth. (In lieu of the third paragraph of the first section of the second article, p. 31.) The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate: the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed: and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

This 12th article was ratified in 1804.

L A W S

OF THE

STATE OF NEW-HAMPSHIRE.

*AN ACT directing the mode of choosing Representatives
to the Congress of the United States.*

Passed June
21, 1792.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the inhabitants of the several towns, parishes, plantations and places in this state, qualified to vote in the choice of senators for the state legislature, shall assemble in their respective towns, parishes, plantations or places on the last Monday of August next, and on such other days as shall be directed in precepts for that purpose, to be hereafter, with advice of counsel, issued by the supreme executive magistrate of this state, so often, and whenever, by the constitution and laws of the United States, it may become necessary, to elect by ballot, such number of persons duly qualified, as this state may be entitled to, for the representatives in the congress of the United States: And the selectmen of the towns, parishes, plantations and places respectively shall give fifteen days notice of the time, place, and design of such meeting, which meeting shall be governed by a moderator chosen for that purpose, who shall impartially preside, and with the selectmen, whose duty it shall be to attend at such meeting, shall receive from all the inhabitants of such towns, parishes, plantations and places respectively present and qualified as aforesaid, ballots or votes for such representatives; and shall in open meeting sort and count the same, of all which the clerk of such town, parish, plantation or place respectively, shall make a fair record in the presence of the said selectmen, of the name of every person voted for, and the number of votes against his name, and a full and fair copy of this record shall be made out and attested by the said selectmen and clerks respectively, and sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof, and transmitted into the secretary's office as herein after directed. And the secretary shall as soon as may be, lay the same before the supreme executive magistrate and council, to be by them examined.

First meeting

Selectmen to
give notice.

Moderator to
be chosen.

Duty of se-
lectmen.

Clerk

Secretary

S. E. Magistrate to cause a list.

In case of equality of votes, secretary to draw.

Second meeting.

Votes by whom to be examined.

In case of equality secretary to draw.

Representatives to be notified.

And in case there shall appear to be any, or the full number elected by a majority of votes, the person or persons thus chosen shall be declared duly elected: But in case there shall not be any, or the whole number so elected, the supreme executive magistrate in the presence of the council, shall cause to be made out a list of the persons having the highest number of votes, equal to double the number of representatives wanted, and if in making out such list it shall happen that two or more persons voted for, have an equal number of votes, one of whom would be entitled to a place in such list, the names of such persons shall be put into a box, and the secretary not being one of the candidates, shall in the presence of said supreme executive magistrate draw the number wanted to complete such list, and the names of the persons contained in the list so made, shall be transmitted to the selectmen of the several towns, parishes, plantations and places aforesaid respectively, who shall warn a meeting to be holden on the twelfth day of November next, which meeting shall be notified, held, governed, and the votes received, sorted, counted and certified as before directed, and transmitted into the secretary's office as herein after directed; and for ever after, all such meetings shall be held on the day directed in the precepts to be issued as aforesaid, and accompanying such lists; which meeting shall be called, notified, held and governed, and all transactions relative to the same conducted in manner aforesaid; and all votes so transmitted to the secretary's office, shall be duly examined by the said supreme executive magistrate and council for the time being, or such of them whose names are not contained in such list, and such number of candidates equal to the number of representatives wanting, as have the highest number of votes, shall be declared duly elected. And in case it shall happen by reason of an equality of votes, a choice of the whole number, or any part of the representatives wanting, cannot be declared, the names of the candidates shall be put into a box, and the secretary not being one of the said candidates, shall in the presence of the supreme executive magistrate draw out the number wanted, and the person or persons whose name or names shall be so drawn out, shall be declared duly elected.—The members so elected and declared shall be considered as representatives of the State of New-Hampshire in the Congress of the United States, the terms for which they shall be respectively chosen; and the secretary shall, as soon may be, notify them of their appointment, and each of the said representatives shall have a certificate of their election, or a commission under the seal of the state, signed by the supreme executive magistrate for the time being, and countersigned by the secretary.

And in case where the secretary is a candidate, and his name put into the box as aforesaid, the said supreme executive magistrate shall appoint some other suitable person in his stead to draw out the name or names of persons in the manner herein before directed. And when it shall happen that by the votes returned, there shall be a majority for more persons than the number required, as many of them as are wanted, having the highest number of votes, shall be declared elected.

Secretary a
candidate
then—

SECT. 2. *And be it further enacted,* That the several clerks aforesaid, respectively shall transmit a certificate of all votes taken, sealed up and directed as aforesaid, to the sheriff of the county to which he belongs, within ten days after the time of holding their respective meetings, or shall transmit the same to the secretary's office at farthest within twenty days from and after the time of such meetings being held: And the several sheriffs shall within twenty-five days from and after the time of holding such meetings transmit to the secretary's office, all votes that shall in manner aforesaid be respectively delivered to them, excepting only that for the present year the votes collected at the second meeting shall, by the several clerks be transmitted to the respective sheriffs within five days after said meetings, or be transmitted to the secretary's office within ten days after such meetings. And the respective sheriffs shall convey all votes transmitted to them as aforesaid to the secretary's office within ten days after the time of holding said meetings.

Duty of clerks.

Sheriffs.

SECT. 3. *And be it further enacted,* That the respective sheriffs and the clerks aforesaid, shall be liable to the same penalties for the neglect of the duties enjoined on them respectively by this act, as they are liable to by law for omissions in transmitting the votes for the choice of the president and senators of this state.

Penalty for
neglect of du-
ty.

Passed June 21, 1792.

AN ACT in addition to an act, entitled, an Act directing the mode of choosing Representatives to the Congress of the United States.

BE it enacted by the senate and house of representatives, in general court convened, That the respective sheriffs and town clerks in this state shall be liable to the same penalties for the neglect of the duties enjoined on them respectively by said act, as they are liable to by law for omissions in transmitting the votes for governor, counsellors and senators.

Passed
June 19, 1812.

Approved June 19, 1812.

The Members from this state to the thirteenth Congress were chosen at meetings holden on the first Monday of November, 1812, pursuant to a resolve of the 19th of June, 1812.

Passed January 14, 1790. *AN ACT to provide for the safe keeping in the publick gaols in this state, prisoners committed under the authority of the United States.*

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That the sheriffs of the several and respective counties in this state, be, and they hereby are required to receive and safe keep in the publick gaols in their respective counties, all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof: And the said sheriffs shall be subjected to the like pains and penalties for neglect of duty herein, as they now are by law in the case of prisoners committed under the authority of this state.

Provided, The United States pay to the said sheriff for the use and keeping of said gaol at the rate of three shillings per month, for each prisoner that shall under their authority be committed thereto, during the time such prisoner shall be therein confined, and also support such of said prisoners as may be committed for offences: And also pay to the keeper of such gaol the customary fees for committing and discharging prisoners.

SECT. 2. *And be it further enacted,* That the said sheriffs shall at the end of every six months from the passing of this act, render an account and pay to the treasurer of the county of which such sheriff may be keeper of the gaol, all monies he shall have received from the United States for the use and keeping of such gaols as aforesaid, excepting the customary fees for committing and discharging prisoners as aforesaid.

Provided always, That nothing in this act contained, shall be construed to give the United States any remedy against this state, or any county thereof, for the escape of any prisoners committed under the authority of the United States.

Passed January 14, 1790.

Passed February 14, 1791. *AN ACT for ceding to the United States of America, one acre and three quarters of an acre of land, with the fort and light-house thereon, situate in New-Castle.*

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That one acre and three quarters of an acre of a certain neck of land situate in New-Castle, on Great-Island, at the entrance of Piscataqua river, commonly called Fort Point, to begin at the north easterly extremity of said point, and to run south westerly, carry-

Cession of Fort Point to the United States.

ing the whole width of said neck of land, until a line crossing said neck, south forty degrees east, shall complete the aforesaid acre, and three quarters* of an acre of land, together with the fort and light-house thereon, be, and hereby are ceded to, and vested in the United States of America, with all the jurisdiction thereof, which is not reserved by this act.

SECT. 2. *Provided nevertheless, and be it further enacted,* That if the United States shall at any time neglect to keep lighted, and in repair said light-house, the cession aforesaid shall in that case be utterly void and of no effect. *Provided also,* That all writs, warrants, executions and all other processes of every kind, both civil and criminal issuing under the authority of this state, or any officer thereof, may be served and executed on any part of said land, or in said fort, or any other building which now is, or hereafter may be erected upon the premises aforesaid, in the same way and manner as though this act had not been passed. *And provided further,* That if the United States shall at any time make any compensation to any of one the United States, for the cession of any light-house, fort or land, which hath been, or hereafter may be made to the United States, the like compensation be made to this state for the land, fort and light-house by this act ceded, in proportion to their respective values.

On conditions.

Passed February 14, 1791.

* Quarters is omitted in the original.

— — —
AN ACT in addition to an act, entitled, "*An act for ceding to the United States of America, one acre and three quarters of an acre of land, with the Fort and Light-House thereon, situate in New-Castle.*" *Passed February 14th, 1791.*

Passed June 18, 1807.

WHEREAS there remains about one acre and one half of an acre of land belonging to this state, situate in said New-Castle, adjoining the before mentioned land which would be useful to, and greatly accommodate the United States ;

Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the remainder of the land at said New-Castle, belonging to this state, being about one acre and one half of an acre more or less, be, and hereby is ceded to and vested in the United States of America, with all the jurisdiction thereof which is not reserved by this act.

Land ceded to the United States.

SECT. 2. *Provided nevertheless, and be it further enacted,* That all writs, warrants, executions, and all other processes of every kind, both civil and criminal, issuing under the authority of this state, or any officer thereof, may be served

Subject to the civil and criminal jurisdiction of this state.

Proviso.

and executed on any part of said land, or in any fort or other building which now is or hereafter may be erected upon said premises in the same way and manner as though this act had not been passed. And provided also, that if the United States shall at any time make any compensation to any one of the United States for the cession of any land which hath been or hereafter may be made to the United States, the like compensation be made to this state, for the land ceded by this act in proportion to the value thereof.

Approved June 18, 1807.

Passed Dec.
14, 1792.

AN ACT to carry into effect the Constitution of this State, as altered and amended by the late convention.

Constitution
to take effect
in part.

BE it enacted by the senate and house of representatives, in general court convened, That the said constitution, so far as it relates to the choice of the members of the legislature and the executive officers of the state, county treasurer and recorder of deeds, shall take effect on the first day of February, in the year of our Lord one thousand seven hundred and ninety-three; and that the whole of the said constitution shall take effect, and be in full force on the first Wednesday of June in the same year.*

Passed December 14, 1792.

* The residue of the Act contains the division of the State into twelve Districts for the choice of Senators, which was of course repealed by the act for the same purpose passed on the 29th of December, 1803, which latter act was also repealed by the act passed the 23d of June, 1813, now in force.

Passed June
21, 1793.

AN ACT to empower the Governor with advice of Council to do certain acts.

WHEREAS doubts have arisen whether the governor with advice of council can execute certain laws and resolves of the legislature, empowering the president under the former constitution with advice of council to carry the same into effect;

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the governor by himself, or with the council, as the case may be, be, and hereby is invested with all the rights and powers respecting issues of money, appointment of officers, or any other matter or thing whatsoever, which were vested in, or committed to the president or president and council under the former constitution, by virtue of any laws, resolves or votes heretofore passed, not otherwise provided for in and by the constitution now in force.

Approved June 21, 1793.

AN ACT to divide the State into Districts for the choice of Senators. Passed June 22, 1813.

BE it enacted by the senate and house of representatives, in general court convened, That the state be divided into the following districts, numbered from one to twelve, each of which shall have the right of choosing one senator for said state annually, pursuant to the constitution :

District No. 1. To contain Portsmouth, Durham, Greenland, Lee, North-Hampton, New-Castle, Newington, New-Market, Rye, and Stratham. District No. 1.

District No. 2. To contain Exeter, Brentwood, Candia, Deerfield, East-Kingston, Epping, Hawke, Hampstead, Hampton, Hampton-Falls, Kingston, Kensington, Newtown, Nottingham, Poplin, Raymond, Sandown, Seabrook, and South-Hampton. No. 2.

District No. 3. To contain Londonderry, Allenstown, Atkinson, Bedford, Bow, Chester, Dunbarton, Dunstable, Goffstown, Litchfield, Manchester, Merrimac, Nottingham-West, Pelham, Plaistow, Salem, and Windham. No. 3.

District No. 4. To contain Concord, Andover, Boscawen, Canterbury, Chichester, Epsom, Loudon, Northfield, Northwood, Pembroke, Pittsfield, and Salisbury. No. 4.

District No. 5. To contain Dover, Alton, Barrington, Barnstead, Brookfield, Effingham, Farmington, Madbury, Middleton, Milton, New-Durham, Rochester, Somersworth, Wakefield, and Wolfeborough. No. 5.

District No. 6. To contain Gilmanston, Burton, Centre-Harbor, Conway, Eaton, Guilford, Meredith, Moultonborough, New-Hampton, Ossipee, Ossipee-Gore, Sandbornton, Sandwich, Tamworth, and Tuftonborough. No. 6.

District No. 7. To contain Amherst, Brookline, Frankestown, Greenfield, Holles, Lyndeborough, Mason, Milford, Mount-Vernon, New-Boston, New-Ipswich, Peterborough, Sharon, Society-Land, Temple, Weare, and Wilton. No. 7.

District No. 8. To contain Hopkinton, Antrim, Bradford, Deering, Fishersfield, Hancock, Henniker, Hillsborough, Kearsarge, New-London, Packersfield, Sutton, Stoddard, Warner, Washington, Wilmot, and Windsor. No. 8.

District No. 9. To contain Keene, Chesterfield, Dublin, Fitzwilliam, Hinsdale, Jaffrey, Marlborough, Rindge, Richmond, Roxbury, Sullivan, Surry, Swansey, Westmoreland, and Winchester. No. 9.

District No. 10. To contain Charleston, Acworth, Alstead, Claremont, Croydon, Gilsum, Goshen, Langdon, Lempster, Marlow, Newport, Springfield, Unity, Walpole, and Wendell. No. 10.

District No. 11. To contain Hanover, Alexandria, Bridgewater, Canaan, Cornish, Danbury, Dame's Gore, Dor-

chester, Enfield, Grafton, Lebanon, Lyme, New-Grantham, New-Chester, Orange, Orford, Plainfield, and Wentworth.

No. 12.

District No. 12. To contain the county of Coos, and all the towns in the county of Grafton that are not included in some of the before mentioned districts.

Approved June 22, 1813.

Passed June
13, 1805.

RESOLVED, that all the people of this state known by the name of universalists, be, and they are hereby recognized and considered as a distinct religious sect or denomination from any other, and are entitled to all the privileges and immunities which any other denomination is entitled to by the constitution and laws of said state.

Approved June 13, 1805.

Passed Dec.
7, 1804.

RESOLVED, that the people of this state commonly known by the name of the free-will anti-pedo baptists' church and society shall be considered as a distinct religious sect or denomination, with all the privileges as such, agreeable to the constitution.*

* The foregoing resolve having passed the house of representatives the 7th and the senate the 8th of December, 1804, was presented to the governor on the latter day, and not having been returned within five days, it has become a law or resolve in like manner as if he had signed it.

Passed June
15, 1807.

RESOLVED, that all the people of this state known by the name of methodists, be, and they are hereby recognized and considered as a distinct religious sect or denomination from any other, and are entitled to all the privileges and immunities which any other denomination is entitled to by the constitution and laws of said state.

Approved June 15, 1807.

Passed
June 17, 1801.

AN ACT for laying a fine on Town Clerks and Sheriff's neglecting to make seasonable returns of votes for governor, counsellors and senators.

Penalty on
town clerks.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if the clerk of any town shall neglect to make return of the votes of such town agreeably to the constitution, for all, or any of the officers aforesaid, he shall, for each and every such neglect, forfeit and pay a fine not exceeding one hundred dollars nor less than twenty dollars, to be recovered by indictment, the one moiety thereof for the use of the prosecutor, and the

other moiety thereof for the use of the town to which such delinquent clerk shall belong.

SECT. 2. *And be it further enacted*, That if any sheriff shall neglect to make return agreeably to the constitution, of the votes of each and every town within his county, for all or any of the officers aforesaid, that may seasonably come to his hands or custody, he shall forfeit and pay a fine of *one hundred dollars* for each town so neglected to be returned, to be recovered by indictment, the one moiety thereof for the use of the prosecutor, and the other moiety thereof for the use of the county to which such delinquent sheriff shall belong. On Sheriffs.

SECT. 3. *And be it further enacted*, That it shall be the duty of the secretary for the time being, in the month of June annually, to transmit to the attorney-general for the time being, a certificate by him signed, certifying what towns, (if any there be) from which he shall not have received within the time prescribed by the constitution, an attested copy of the votes for any or all of the officers aforesaid, which certificate shall be considered as evidence of the return not being made to his office, and it shall be the duty of the attorney-general to prosecute all such delinquent sheriffs and clerks. Duty of Secretary.

SECT. 4. *And be it further enacted*, That whenever any town clerk shall deliver or cause to be delivered in due season to the sheriff of the county to which he belongs, or to the secretary, a letter sealed and directed to the secretary, and by the superscription thereon, purporting to be votes for any of the officers aforesaid, it shall be the duty of the sheriff or secretary, as the case may be, to give a receipt to such town clerk, that he has received a paper purporting to be a certificate of votes for the officers aforesaid from such town; and in like manner, whenever any sheriff shall seasonably deliver to the secretary any letter directed and superscribed as aforesaid, it shall be the duty of the secretary to give a receipt to such sheriff therefor, if requested. Sheriffs or Secretary to give a receipt.

SECT. 5. *And be it further enacted*, That an act entitled, "an act for laying a fine on delinquent sheriffs and town clerks, passed the twenty-fourth day of February in the year of our Lord one thousand seven hundred and eighty-six, be, and the same is hereby repealed. Repealing clause.

Approved June 17, 1801.

AN ACT declaring the tenure which certain officers shall have in their respective offices.

BE it enacted by the senate and house of representatives, in general court convened, That the following officers, to wit, attorney-general, solicitors and sheriffs hereafter to be ap- Passed Dec. 18, 1799.

pointed, shall hold their respective offices for and during the term of five years from the time of their respective appointments; subject to be removed by the senate by impeachments, and by the governor with consent of council, upon the address of both houses of the legislature.

Approved December 18, 1799.

Passed Dec.
9, 1808.

WHEREAS the constitution provides that no person shall hold the office of judge of any court or judge of probate or sheriff of any county after he have attained the age of seventy years; Therefore,

Resolved, by the senate and house of representatives in general court convened, that in future it shall be the duty of his excellency the governor, with the advice of the council, on satisfactory evidence being produced that any judge or sheriff holds his office who is disqualified on account of age, by the constitution, to notify said judge or sheriff accordingly, and to fill the vacancy so occasioned by a new appointment.

Approved December 9, 1808.

Passed Feb.
12, 1785.

AN ACT to establish a Seal, to be used as the great seal of this state.

WHEREAS the committee appointed by the general court to prepare a device and inscription for a state seal, did on the first day of November last, lay before said court a device, with the following inscription, *viz.* A field encompassed with laurels, round the field in capital letters, SIGILLUM REIPUBLICÆ NEO-HANTONIENSIS, on the field a rising sun and a ship on the stocks, with American banners displayed, being two inches diameter, which was then voted to be received and accepted, and accordingly hath since that time been used as the great seal of the state; but as doubts have since arisen, whether the vote for establishing said seal was sufficiently explicit; for removing such doubts;

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the said seal, with the above recited inscription, be fully established and used in all cases, as the great seal of this state, and considered as having been such from the first day of November last.

Passed February 12, 1785.

Passed Dec.
17, 1803.

AN ACT directing that State and County Officers shall be elected on the same day throughout this State.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the passing

of this act, the meetings of the several towns and places in this state for the election of state and county officers, shall be holden on the second Tuesday of March annually, and at no other time: and that the said towns and places whose charters of incorporation fix their annual meetings upon a day different from the day above mentioned, shall have a right to choose their town officers and to transact any town business upon the said second Tuesday of March; any law, usage, or custom, to the contrary notwithstanding.

Provided nevertheless, That whenever two or more towns are classed for the choice of a representative, the election of such representative may take place on any day in March, any thing in this act to the contrary notwithstanding.

Approved, December 17, 1803.

AN ACT directing the mode of administering oaths in certain cases. Passed
Feb. 12, 1794.

BE it enacted by the senate and house of representatives, in general court convened, That the several justices of the peace within this state, within their respective counties, be, and they are hereby empowered to administer the oaths prescribed by the constitution to the field-officers, captains, and subalterns already appointed and not sworn, or that may hereafter be appointed in the several regiments in this state; and also to all coroners, sheriffs, and deputy sheriffs, and that any two of the council, or any one of the council with a justice of the peace, or any two justices of the peace, quorum unus, be empowered to administer the oaths aforesaid to all general and civil officers; and that any two justices of any court in this state be empowered to administer the oaths aforesaid to their respective clerk or clerks, and that they respectively make return of the same into the office of the secretary of this state, within six months next after administering the same.

Approved February 12, 1794.

AN ACT declaring the limits and boundaries of the several Counties in this State. Passed June
16, 1791.

BE it enacted by the senate and house of representatives, in general court convened, That the division of this state into five counties by the names of Rockingham, Strafford, Hillsborough, Cheshire and Grafton, be, and hereby is declared and established as follows, namely:

* The date between brackets, shews when the act took effect, its operation having been suspended by sundry acts.

Rockingham. The county of Rockingham is bounded as follows, beginning at the mouth of Piscataqua river, and running up the same to the easterly corner of New-Market, including the river, and from thence northwesterly by the easterly and northerly side lines of New-Market, Epping, Nottingham, Northwood, Pittsfield, Chichester, Loudon, Canterbury and Northfield to the river Merrimac, and down the same to the line of Concord, including the river, then round the westerly line of Concord and Bow to Merrimac river, thence down the same to the northwest corner of Derryfield, thence by the northerly and easterly lines of Derryfield, and the easterly lines of Litchfield and Nottingham-West, to the state line, thence by said line to the sea, thence by the sea to the bounds first mentioned, including all that part of the Isle of Shoals which belongs to this state.

Strafford. The county of Strafford is bounded as follows, beginning at the northwest corner of Northfield, thence up the river Pemigewasset or Merrimac, to the southwest corner of New-Holderness, thence on the southerly and easterly lines of New-Holderness to Sandwich, then on the westerly and northerly lines of Sandwich to Tamworth, then on the northerly lines of Tamworth and Eaton to Conway, from thence on the westerly and northerly lines of Conway, to the state line, thence down said line to the line of the county of Rockingham, thence by said line of the county of Rockingham to the bounds first mentioned.

Hillsborough. The county of Hillsborough is bounded as follows, beginning at the southeast corner of Nottingham-West, thence westerly by the state line to the south east corner of Rindge, thence by the easterly side lines of Rindge, Jaffrey, Dublin, Packersfield, Stoddard and Washington to the north easterly corner of Washington, thence by the northerly side line of Washington, to the south westerly corner of Fishersfield, thence on the westerly side line of Fishersfield and New-London to the north westerly corner of said New-London, thence on the north easterly lines of New-London and Kearsarge, and the northerly side line of Andover to Pemigewasset river, thence on the line of the county of Strafford and Rockingham to the bounds first mentioned.

Cheshire. The county of Cheshire is bounded as follows, beginning at the south east corner of Rindge, and from thence running westerly by the state line to the westerly bank of Connecticut river, thence up the same till it comes opposite to the northwest corner of Plainfield, then crossing the river to the said corner of Plainfield, thence by the northerly side lines of Plainfield, New-Grantham and Protectworth to the boundary line of the county of Hillsborough, thence by the westerly line of said county of Hillsborough to the bounds first mentioned.

The county of Grafton shall contain all the land and waters in said state, not comprehended in the other counties. And all the towns and places within the bounds aforesaid respectively, shall be deemed accepted, named and taken as parts and members of the respective counties aforesaid.

Passed June 16, 1791.

AN ACT to annex the town of Burton in the county of Grafton, to the county of Strafford. Passed
Nov. 27, 1800.

WHEREAS the inhabitants of the town of Burton, in the county of Grafton in this state, have preferred a petition to the general court, setting forth that nature has so formed a chain of mountains as to cut them off from all convenient communication with said county of Grafton, that they have to travel a large distance through the county of Strafford to go to any court that is or ever will be holden in said county of Grafton, with other inconveniences, praying that the said town of Burton with the inhabitants thereof, be annexed to the county of Strafford; the prayer whereof appearing reasonable;

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the said town of Burton with the inhabitants thereof, be, and they are hereby annexed to the said county of Strafford, and shall hereafter be deemed to belong to, and considered as part and parcel of the said county of Strafford, to all intents and purposes, any law, usage or custom to the contrary notwithstanding.

Provided, that nothing in said act contained shall preclude or prevent the said town of Burton and the inhabitants thereof, from being liable to pay all dues, and assessments imposed on them by law, and payable to the said county of Grafton previous to this act. *Approved November 27, 1800.*

AN ACT to annex part of the town of Wendell to the town of New-London. Passed
Dec. 11, 1804.

WHEREAS the inhabitants of a part of the township of Wendell, in the county of Cheshire, would be better accommodated to be annexed to the town of New-London, in the county of Hillsborough; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That so much of the town of Wendell as is included in the following boundaries, *viz.* Boundaries beginning at great Sunnapee pond at the southwesterly corner of the forty acre lot lately occupied by Robert Boyes, and now occupied by Stephen Carrier, thence northerly, on the

County. westerly line of said lot, to the northwesterly corner of said lot, thence following the same course till it strikes the line of Springfield, including all the lands in said Wendell southerly of said line and easterly of great Sunnapée pond, with the inhabitants thereof, be annexed to the said town of New-London: and that the said territory shall hereafter constitute a part of the said town of New-London and of the county of Hillsborough; and that the inhabitants of said territory shall do the same duties, and enjoy the same privileges as the other inhabitants of the said town of New-London.

When to take effect. **SECT. 2.** *And be it further enacted,* That this act shall take effect the first day of February, in the year of our Lord one thousand eight hundred and five.

*Approved December 11, 1804.**

* This act is published because it alters county lines.

Passed Dec. 24, 1803. **AN ACT to constitute a County within this state, by the name of the County of Coos.**

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That there be, and hereby is, constituted and established within this state, a county by the name of *the County of Coos.*

Bounds. **SECT. 2.** *And be it further enacted,* That said county of Coos shall contain all the lands and waters situated northerly of the line herein after mentioned and described within this state; which line is considered as beginning on the westerly bank of Connecticut river, at the south-westerly corner of Dalton, and running on the westerly and southerly line of Dalton to Whitefield, thence on the westerly and southerly line of Whitefield to Bretton-Woods, thence on the westerly and southerly line of Bretton-Woods to the south-easterly corner thereof, thence southerly on a straight line across the unlocated lands to the line of the county of Strafford, at the north-westerly corner of Tamworth, thence on the line of the county of Strafford to the line of the District of Maine, to contain all the lands and waters northerly of the above described line, consisting of the following towns, namely, Dalton, Whitefield, Bretton-Woods, Bartlett, Adams, Chatham, Shelburne, Shelburne Addition, Durand, Kilkenny, Jefferson, Lancaster, Millsfield, Northumberland, Stratford, Wales' Gore, Cockburne, Colebrook, Stuartstown, Piercy, Paulsburg, Mainsborough, Dummer, Errol, Cambridge and Success.

Powers. **SECT. 3.** *And be it further enacted,* That said county of Coos be, and hereby is, invested with all the powers and privileges which other counties in this state are invested with, possess, or enjoy.

SECT. 4. *And be it further enacted,* That the superior court of judicature shall be holden at Lancaster, in said county, on the second Tuesday of November annually. Superior court where and when to be holden.

SECT. 5. *And be it further enacted,* That there shall be a court of common pleas, consisting of four justices, holden at Lancaster, within and for said county of Coos, on the first Tuesday of January and the first Tuesday of July annually, which shall have similar jurisdiction with other courts of common pleas within this state. Court of common pleas.

SECT. 6. *And be it further enacted,* That the justices of the court of common pleas, judge of probate, sheriff, and all other officers for and within said county of Coos, shall be appointed and chosen in the same way and manner, as by the constitution and laws of this state they are required to be appointed and chosen in other counties in this state. Justices, &c. how chosen.

SECT. 7. *And be it further enacted,* That this act shall take effect and be in force from and after the first day of March, in the year of our Lord one thousand eight hundred and five, and not before said first day of March, any thing herein contained to the contrary notwithstanding. When to take effect.

Approved December 24, 1803.

AN ACT in addition to an act, entitled, "An act to constitute a County within this state by the name of the County of Coos." Passed June 18, 1805.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the whole of Nash and Sawyers location so called be annexed to, and be a part and parcel of the county of Coos. County of Coos enlarged.

SECT. 2. *And be it further enacted,* That all writs of execution which issue on judgments rendered at the superior court of judicature in said county, shall be made returnable to the superior court of judicature then next to be holden within and for the county of Grafton, in the same manner as executions which issue on judgments rendered at said court in said Grafton county. Writs of execution returnable to Grafton.

SECT. 3. *And be it further enacted,* that the selectmen of the several towns, plantations, and places within said county of Coos, are hereby authorized and empowered to assess the county tax which has been voted during this session of the general court to be raised within and for said county of Coos, by the valuation which was made last spring of the rateable property within said county, and may cause the same to be collected the present year, in the same way and manner as the laws of this state authorize the collection of similar taxes, excepting only that instead of the collectors

lodging a list of non-resident taxes with the deputy secretary on or before the eighth day of the next session of the general court, to be by him kept till the first day of September, it shall be the duty of every collector of taxes within said county, to deliver to the deputy secretary a list of the non-resident taxes on or before the first day of August next, and the same shall be kept by said deputy secretary until the first day of October next.

SECT. 4. *And be it further enacted*, That the several collectors of taxes within said county of Coos, be authorized and directed to collect and pay into the treasury of said county, for the use of said county, so much of the county tax amounting in the whole to one thousand dollars, voted last June to be raised for the county of Grafton, as was assessed on that part of the then county of Grafton, which now constitutes the county of Coos.

Coos and
Grafton to
elect one
counsellor.

SECT. 5. *And be it further enacted*, That said county of Coos be united with the county of Grafton, for the purpose of electing a counsellor, and the senatorial districts remain the same as they were previous to the establishment and organization of said county of Coos.

Approved June 18, 1805.

Passed June
8, 1791.
[Sept. 15,
1792.]

AN ACT prescribing the duty and directing the mode of choosing Registers of Deeds and county Treasurers.

Registers of
deeds and
county treasurers
to be
chosen annually.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened. That the inhabitants of each town and place in the respective counties in this state, qualified to vote in the choice of representatives, at some publick meeting duly warned and holden some time in the month of March, annually, give in their written votes for a register of deeds and for a county treasurer; and the votes shall be sorted and counted in open town meeting, and a record made of the name or names of the person or persons voted for to each of said offices, and the number of votes each person had, and the clerk of such town or place shall proclaim the same in open town meeting, and shall transmit an attested copy of the record of the votes for each of said offices, to the court of general sessions of the peace in the same county, on the first day of the sitting of said court, at the stated term next after the month of March in every year.

And the votes being examined by said court, the person having the highest number of votes to each of said offices shall be declared duly elected, and shall continue in office one year from the time of declaring the election, and until some person be chosen and qualified to enter upon the duties of the said office.

And no person shall be deemed eligible to either of said offices, who shall not be at the time of his election a freeholder and resident in the county in which he is chosen, and no person shall be considered as qualified to enter upon the duties of either of said offices, until he hath taken the oath by law prescribed for civil officers, and hath given bond for the faithful discharge of the trust with such sureties and in such penal sum as the said court shall approve and order; which sum shall in no case be less than three hundred pounds, nor more than ten thousand pounds.

SECT. 2. *Provided always, and be it further enacted,* That it shall be in the power of the justices of the court of general sessions of the peace, to remove or displace the person holding either of said offices for misconduct in discharge of his duty, and to declare said offices vacant by reason of the death, removal from the county of any such officer, or by reason of such officer's becoming *non compos mentis*.

SECT. 3. *And be it further enacted,* That if it shall so happen that two or more persons of those having the highest number of votes for either of said offices, should have an equal number of votes, the justices of the said court of general sessions of the peace shall choose one of the persons so having an equal number of votes, who shall be declared duly elected.

SECT. 4. *And be it further enacted,* That in case the person chosen into either of said offices, in either of the ways before mentioned, shall decline accepting the office to which he is elected, or shall be at the time of declaring such choice *non compos mentis*, or shall have at said time removed from the county, or shall have died before the said choice is declared; in every such case the justices of said court, shall by a majority of votes elect a person to either of said offices, as the case may be, who shall be a freeholder and resident in the same county, who shall be sworn and shall give bonds previous to his entering on the duties of his office in the same manner as is before prescribed, and who shall hold the office the same term as though elected by the people.

SECT. 5. *And be it further enacted,* That the court of general sessions of the peace at the term of said court next after the month of March, shall, after persons shall have been chosen and qualified to enter upon the duties of each of said offices, proceed also by a majority of votes to elect two persons, freeholders and residents in the same county, one for each of said offices, to enter upon the duties thereof (after being sworn before two justices of the peace, *quorum unus*, and after having given bonds as before required) upon the death, resignation or removal from office of the person holding either of said offices, or upon such persons becoming *non compos mentis*, or removing from the county; and such person

Their qualifications

May be removed by the sessions.

Sessions to determine the choice in case.

Sessions to elect if the person chosen by the people decline, &c.

or in case a vacancy shall happen in the course of the year

shall thereupon be invested in the same office in the same manner as if such person had been appointed thereto at any annual election, and shall hold the office until a person shall be chosen at the next annual election and qualified to enter upon the duties thereof.

Register's
duty.

SECT. 6. *And be it further enacted*, That it shall be the duty of the said register of deeds to keep his office daily (except on Sundays) open in the same county, and to keep the books, records, files and papers to the said office belonging, and for the fees by law established to record all deeds and instruments in said office to be recorded, that shall be brought to him for that purpose; and every deed received and filed by the register of deeds shall be recorded by him, and he shall not suffer the same to be taken out of the office until the same be recorded.

Treasurer's
duty.

SECT. 7. *And be it further enacted*, That it shall be the duty of the county treasurer to collect and receive all monies belonging or coming to such county, and to improve and employ the same for the defraying of county charges as the court of general sessions of the peace shall from time to time in writing direct; and the said county treasurer shall render a true account to the said court whenever thereto required, of all sums by him as county treasurer received and paid; and the said county treasurer shall issue his warrants to the selectmen of the several towns and places in said county, liable by law to pay state taxes, requiring them to assess and cause to be collected their just proportion of all such sums as shall be voted, granted and agreed to be raised by the said court of general sessions of the peace: in making said proportion, the said treasurer shall be governed by the existing laws establishing the proportion of publick taxes among the several towns and places in this state; and the said treasurer may enforce the collection and payment of said several sums, in the same manner as the state treasurer may and can by law enforce the collection and payment of out standing state taxes.

Allowance to
the treasurer.

And the said court of general sessions of the peace, shall make the said county treasurer such allowance for his executing the duties of his office, as to said court shall seem reasonable.

Vouchers
for payment.

SECT. 8. *Provided always, and be it further enacted*, That the order of the superior court of judicature, or the court of common pleas respectively, shall be a sufficient voucher for the payment out of the county treasury of the travel and attendance of the grand jurors at the superior court, for the travel of the petit jurors at either of said courts, with the fees for venires, and the fees of the clerks for examining and certifying the same, and for the payment of all other sums which said superior court, court of common

pleas, or any person or persons by law are, or may be authorized to order to be made out of the county treasury.

SECT. 9. *And be it further enacted*, That the bonds to be given by the register of deeds, shall be given to the county treasurer and his successor in office, and shall be for the benefit of the person or persons injured by the misconduct of the register of deeds in his said office, and shall be put in suit by order of the court of general sessions of the peace, and execution shall be done from time to time for all such sums as any person or persons shall have recovered judgment for, against such register of deeds, and for which they shall not have otherwise obtained satisfaction.

Register's
bonds.

And the bonds given by the county treasurer shall be given to the clerk of the court of general sessions of the peace, and shall be for the use of the county, and shall be put in suit by order of the court of general sessions of the peace, and execution shall be done on judgment obtained thereon, for all such sums (not exceeding the amount of such judgment) as the treasurer shall be in arrear in his account with the county, and the suit shall be commenced in an adjacent county, notwithstanding neither party may be inhabitants therein.

Treasurer's
bonds.

SECT. 10. *And be it further enacted*, That no clerk of any superior court of judicature, court of common pleas, or court of general sessions of the peace, shall, at the same time be register of deeds or county treasurer, nor shall any person at the same time be register of deeds and county treasurer.

Exclusion

Passed June 8, 1791.

AN ACT in addition to, and amendment of an act, entitled, "An act prescribing the duty and directing the mode of choosing Registers of Deeds and County Treasurers."**

Passed June
10, 1802.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That whenever the office of register of deeds, or county treasurer, in any county of this state, may become vacant, and no provision having been made previously for filling such vacancies; in such cases, the justices of the court of common pleas, within and for such county, may, and are hereby authorized and required to meet at any time and place that shall be appointed by the first justice of said court, for the purpose of choosing and appointing a register of deeds, or county treasurer, to fill such vacancy; and the person so chosen and appointed, after giving bonds and being sworn, as is by law directed, shall hold said office until another be chosen in his stead, and qualified agreeably to law.

The office of
register, or
county treas-
ure, being
vacant,
Justices of
the C. P. may
appoint.

* Register, Treasurer—in the original.

County of
Cheshire.

And whereas the office of Register of Deeds, within and for the county of Cheshire, is now vacant, and no provision has been made for supplying said vacancy ;

Therefore,

SECT. 2. *Be it further enacted, That the justices of the court of common pleas, within and for the county of Cheshire aforesaid, be, and are hereby authorized and required to meet, at such time and place as the first justice of said court shall appoint, for the purpose of choosing or appointing a person to fill said office, who, after giving bonds and being sworn as the law directs, shall hold said office until another be chosen and qualified in his stead.*

Approved June 10, 1802.

Passed Dec.
13, 1804.

AN ACT directing the Recorders of Deeds to make a General Index of the Deeds Recorded.

Gen. Index.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That the respective recorders of deeds in the several counties in this state, be, and hereby are directed and required to make a general index referring to deeds ; which index shall be in one large folio volume, of a size that will admit of a large number of additional names, which shall be added as often as deeds are recorded, and at the time of recording the same. The index shall contain two lists, one to consist of all the names of the grantors to the grantees ; the other to consist of all the names of the grantees from the grantors ; and no recorder of deeds shall receive any compensation therefor, except for indexing those deeds which have been heretofore recorded and not indexed ; but it shall be considered a duty appertaining to the office of recorder of deeds.*

Penalty for
neglect.

SECT. 2. *And be it further enacted, That every recorder of deeds within this state who shall neglect to comply with the directions and requirements of this act, shall forfeit and pay the sum of twenty dollars for each and every neglect or omission to be recovered by the treasurer of the county, where such neglect may happen, in an action of debt, before any court of competent jurisdiction, for the use of the same county.*

Approved Dec. 13, 1804.

Passed Feb. 9,
1791.

[September
15, 1792.]

Civil juris-
diction of
justices of
the peace.

AN ACT for establishing Courts of Law, for the administration of justice within this state, and designating their powers, and regulating their proceedings in certain cases.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That every justice of the peace within his county, be, and hereby is authorized and empowered to hear, try and determine all pleas and*

actions (except such wherein the title of real estate may be drawn in question) where the sum demanded in damages doth not exceed forty shillings, notwithstanding the note, account, or other contract might originally have exceeded that sum, and to give judgment therein. And either party aggrieved, at the judgment given by any justice of the peace in any civil cause, may appeal therefrom to the next court of common pleas to be holden in the same county, provided the appeal be claimed within two hours after judgment is rendered and entered. Appeal.

SECT. 2. *And be it further enacted*, That when an action of trespass shall be brought before any justice of the peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question. Actions of trespass brought before a justice.

And when in any such action the defendant shall plead a special plea, whereby the title of real estate shall be drawn in question, the justice shall record such plea, and no further proceeding shall be had thereon before the justice, and the plaintiff may carry an attested copy of the writ, declaration, plea, and all other papers filed in the same cause, to the next court of common pleas to be holden in the same county; and is hereby authorized and empowered to enter in said court his said action and prosecute the same to final judgment, as in cases originally commenced at said court of common pleas; and the justices of said court are hereby empowered to take cognizance of said action, and the defendant shall be holden by his said plea, and the proceeding subsequent thereto, shall be the same as though the action had been commenced and prosecuted so far at said court. 1 & 2 sections repealed by act passed June 22, 1810. Sect. 8.

And in case the plaintiff shall not enter said action at said court, upon complaint made by the defendant, the justices of said court shall allow him his full costs, both before the justice and at said court.

Provided that in case the plaintiff shall immediately on the defendant's plea being filed before the justice, as aforesaid, pray leave to become nonsuit, that liberty shall be granted him by the said justice, and costs shall be taxed for the defendant.

SECT. 3. *And be it further enacted*, That every justice of the peace, for the preservation of the peace, or upon the view of any breach of the peace, or of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatsoever, shall, and hereby is authorized and empowered in the absence of a sheriff, deputy sheriff or constable, to require any person or persons to apprehend and bring before him, any such offender or offenders, and every person or persons, who, upon being thereto required, shall neglect to obey such justice, shall incur and suffer the like pains and penalties as in the case of neglect- Power of a justice for the preservation of the peace, &c.

ing or refusing to assist sheriffs in the execution of their offices.

Appeal.

SECT. 4. *And be it further enacted*, That any person sentenced, for any criminal offence, by one or more justices of the peace, out of sessions (unless in cases where by a particular statute it is otherwise ordered and enacted) may appeal therefrom unto the next court of general sessions of the peace, to be holden in the same county; provided the appeal be claimed at the time of declaring sentence, and the appellant enter into recognizance, with sufficient sureties in a reasonable sum not exceeding *ten pounds*, for his appearance at the court appealed to, and to prosecute his appeal there with effect, and to perform and abide the order or sentence of the said court thereon, which is to be final; and in the mean time to be of good behaviour.

Justices power to adjourn.

SECT. 5. *And be it further enacted*, That every justice of the peace shall have power to adjourn the trial of any civil action brought before him to such future time as may be proper, not exceeding three months.

He may not be of counsel to either party.

SECT. 6. *And be it further enacted*, That no justice of the peace shall be of counsel, or act as an attorney to either party; nor shall any justice of the peace undertake to advise, or assist any party in any suit or cause before him.

May take recognizances for appearance before him in certain cases.

SECT. 7. *And be it further enacted*, That when any person is brought before any justice of the peace, to be examined or tried for any criminal offence by him cognizable, and justice may require that the said examination or trial should be postponed to some future day, the said justice may proceed to take security by way of recognizance of the parties and witnesses, for their appearance before him on some future day, in the same manner as the courts of general sessions of the peace, and superior court of judicature respectively by law may, and can do.

Must account for fines received by him.

SECT. 8. *And be it further enacted*, That every justice of the peace, shall, within six months after the receipt of any fine or forfeiture, set or imposed by such justice, pay the same to the person or persons to whom the same by law accrues, or is payable, on pain of forfeiting the sum of *ten pounds* for every neglect herein, to be recovered by any person who will sue for the same, by action in any court of common pleas; and shall moreover be liable to an action, by the party to whose use the said fine or forfeiture accrued, for the amount of such fine or forfeiture and costs.

Courts of general sessions.

SECT. 9. *And be it further enacted*, That there shall be one court of general sessions of the peace within and for each respective county in this state, to be holden by the justices of the peace for such county, or any three of them, of whom one at least shall be of the quorum, the said court

to be holden at such times and places as are by law established, which said court shall have cognizance of all matters and things proper to the jurisdiction of said court, relating to the conservation of the peace and punishment of offenders, according to the law and statutes in force within this state.

And every respondent against whom judgment shall be Appeal given, by the justices of the court of general sessions of the peace, shall have liberty to appeal therefrom, unto the next superior court of judicature to be holden in the same county, the matter being originally heard and tried in said court of general sessions of the peace (except in cases where by particular laws an appeal is expressly disallowed)—and no appeal shall be granted, unless it be claimed at the time of declaring sentence, and the appellant enter into recognizance with sureties, within the space of two hours next after, in a reasonable sum for his personal appearance at the court appealed to, for the prosecution of his appeal there with effect, and to perform and abide the order or sentence of said superior court thereon, and to be of good behaviour in the mean time; and the party appealing is to remain in the hands or custody of an officer, until he shall have given such security.

SECT. 10. *And be it further enacted*, That the justices of the peace in the respective counties in this state, at any court of general sessions of the peace, be, and hereby are authorized and empowered to make orders for the raising any sum or sums of money that may be necessary, from time to time, for building or repairing court-houses, prisons, houses of correction or other publick county buildings, payment of grand jurors, travel of petit jurors, travel and attendance of the justices of the sessions, and all other county charges within each county; and to examine or allow any accounts, or demands that may be laid before them, for the ends aforesaid, and to remit any fines or forfeitures accruing to the county: and the county treasurer shall issue his warrant for assessing, levying, and collecting such sums as shall be voted to be raised as aforesaid, which sums shall be apportioned to the several towns and places in such county, agreeably to the proportion established for raising state taxes for the time being, and such taxes shall be levied and collected in the same manner as the state taxes, and as the law shall or may direct. Power of the court of sessions, and county treasurer.

SECT. 11. *And be it further enacted*, That there shall be a court of common pleas within each county in this state, to be holden at such times and places as are by law appointed, by four justices appointed and commissioned thereto, by the president and council for the time being; any three of which justices shall be a quorum: And the said court shall have cognizance of all suits wherein the title of Court of common pleas.

real estate is concerned, and of all civil actions of the value of more than forty shillings, arising or happening within their respective counties, triable by common or statute laws, and shall give judgment thereon and issue execution accordingly.

Appeal.

And either party aggrieved at the judgment given in any court of common pleas, in any matter or cause originally tried there, shall have liberty to appeal therefrom to the next superior court of judicature, to be holden in the same county:—Provided the said appeal be claimed whilst the said court is sitting.

No appeal granted in case of judgment on default.

SECT. 12. *And be it further enacted,* That no appeal shall in any case be granted, where judgment is rendered upon default.

Superior court of judicature.

SECT. 13. *And be it further enacted,* That there shall be a superior court of judicature within this state, to be holden at such times and places as are, or may be by law established, by a chief justice and three other justices appointed and commissioned thereto by the president and council for the time being, any three of which justices shall be a quorum; and the said court shall have jurisdiction and authority throughout this state, and shall have all the powers and authorities which the superior court of judicature within this state, have heretofore held and enjoyed, or by law ought to hold and enjoy. And the justices of the said court are hereby empowered to give judgment or sentence, and to award execution thereon.

Power and mode of adjourning courts in certain cases.

SECT. 14. *And be it further enacted,* That the superior court of judicature, the court of common pleas, and court of general sessions of the peace, shall have power and authority respectively to adjourn their respective courts from time to time, as they may think proper. And one or more of said justices being present at the place where, and the time when the court to which such justice or justices belong, is by law to be holden, may adjourn the same court from day to day, until a quorum be convened; and when it shall so happen that by death, sickness or otherwise, a quorum of the respective courts cannot attend at the time and place, by law appointed for holding such court, any two justices of such court may by writ, direct the sheriff to repair to the place where such court is by law to be holden, on the day appointed for holding the same, and adjourn the same court to some day antecedent to the next term, and if at such adjournment, or at any adjournment, a quorum of said court cannot attend, one or more of the justices present shall have power to continue all causes then pending in the same court, to the next stated term.

Power of making rules.

SECT. 15. *And be it further enacted,* That the justices of the said superior court of judicature, court of common pleas and court of general sessions of the peace, be, and hereby are respectively empowered to make necessary rules for the more orderly practising in their respective

courts, provided the said rules be not repugnant to the constitution and laws of this state; and to appoint clerks in their respective courts, who shall be under oath for the faithful discharge of the duties of said office, and who shall hold their offices during the pleasure of the court.

SECT. 16. *And be it further enacted*, That the justices of the court of common pleas, and the justices of the superior court of judicature, where the forfeiture or penalty of any obligation with a condition underwritten, or a penalty annexed to any articles, agreements, covenants, contracts, charter-party or other specialty, or forfeiture of any estate, granted upon condition, executed by deed of mortgage or bargain and sale with defeazance, shall be found by verdict of a jury, or by default or confession of the obligor, mortgagor or vendor, or upon demurrer, are hereby empowered and authorized respectively to chancer such forfeiture and to make up judgment thereon for the plaintiff, for such sum as is due according to equity and good conscience, and to award execution accordingly. But in actions, upon mortgage or deed of bargain and sale with defeazure, the judgment shall be conditional; that if the mortgagor or vendor, his heirs, executors or administrators, shall pay unto the mortgagee or vendee, his executors, administrators or assigns, such sum as the court shall adjudge due, within two months from the time of entering judgment, with interest, then the same mortgage or deed of bargain and sale shall be void and discharged, otherwise that the plaintiff shall have his writ of possession.

Power of
chancery in
certain cases

Judgment on
mortgages

Provided always, That when any action shall be brought and prosecuted on any bond or other specialty, with penalty for the payment of any sums of money, performance of covenants, contracts, agreements, matters or things to be done at several times, some of which times shall not have expired, and the plaintiff recover the forfeiture of any such penalty, the court shall enter up judgment for the whole of such forfeiture, and award execution only for so much of the debt or damage as is justly due or sustained at that time; and the plaintiff, his executors or administrators, at any time afterwards may have from the court where such judgment was rendered, a writ of scire facias against the defendant, his heirs, executors or administrators, to shew cause why execution should not be awarded upon said judgment, for other and further damages, by reason of the non-performance or the breach of the contracts, covenants, agreements or things in such bonds or specialties contained, and the time for the performance of which had not elapsed at the time of awarding execution as aforesaid.*

Scire facias
in certain ca-
ses.

Passed February 9, 1791.

* The last section establishes the time and places of holding the several courts, and as it has been long since repealed, it is not reprinted in this edition.

Passed Dec. 16, 1797. *AN ACT in addition to an act, entitled, "An act for establishing Courts of Law for the administration of justice within this State, and designating their powers, and regulating their proceedings in certain cases," passed February 9th, 1791.*

One justice may try.

BE it enacted by the senate and house of representatives, in general court convened, That whenever it shall happen in consequence of any legal disqualification of one or more of the justices of either of the courts of common pleas, or of the superior court of judicature, that there shall not be a quorum of said justices for the trial of any cause pending in either of said courts respectively, any one or more of said justices in their respective courts not disqualified as aforesaid, shall, and they are hereby empowered to hear, try, and determine such cause, and make any order relative thereto, and award execution thereon, in the same manner as all the justices of said court might do if present, and competent to try the same, any law, usage or custom to the contrary notwithstanding.

Approved December 16, 1797.

Passed Dec. 8, 1804. *AN ACT in addition to and in amendment of an act, entitled, "An act for establishing Courts of Law, and designating their powers and regulating their proceedings in certain cases."*

When vacancies happen.

Court to consist of three justices

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That at any time hereafter when a vacancy shall take place in the superior court of judicature, or in any of the courts of common pleas in this state by death, resignation or other legal cause of the failure of either of the present justices of any of said courts—the said superior court and courts of common pleas shall respectively consist of a chief justice and two other justices appointed and commissioned thereto, by the governor and council for the time being, any two of which justices shall constitute a quorum, and whenever it shall happen that in consequence of any legal disqualification of one or more of said justices, there shall not be a quorum of said justices for the trial of any cause pending in said court, any one of said justices not disqualified as aforesaid shall be, and hereby is empowered to hear, try, and determine such cause, and make any order relative thereto, and award execution thereon in the same manner as the justices of said court might do if present—any law to the contrary notwithstanding.

SECT. 2. *And be it further enacted, That from and after the time when the justices of the said courts of common pleas shall in consequence of the provisions of this act be*

reduced to the number of three, there shall be paid to each of the justices of said courts of common pleas attending the same, the sum of twenty three cents for the entry of every action, petition or complaint in said courts; and the remainder of such part of the fees for the entry of actions, petitions and complaints as have been heretofore paid to the justices of said courts of common pleas shall be paid by the clerks of said courts into the treasuries of said counties respectively for the use thereof.

Approved December 8, 1804.

AN ACT in addition to an act, entitled, "*An act in addition to, and in amendment of an act, entitled, an act for establishing courts of law and designating their powers and regulating their proceedings in certain cases,*" passed the present session. Passed Dec. 11, 1804.

WHEREAS there is a vacancy on the bench of the court of common pleas in the county of Grafton, which happened previous to the passing of the aforesaid act; which case is not provided for in said act;

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the regulations and provisions in the aforesaid act, to which this is an addition, relating to the courts of common pleas have effect, relate and apply to the court of common pleas in the county of Grafton where there is now a vacancy, in the same way and manner as if said vacancy had happened after the passing of the aforesaid act.

Approved December 11, 1804.

AN ACT authorising and empowering Justices of the Peace to hear, try and determine civil causes, and to repeal certain acts and certain clauses of an act therein mentioned. Passed June 22, 1810.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That every justice of the peace within his county, be, and hereby is authorised and empowered to hear, try and determine all pleas and actions (except such wherein the title of real estate may be drawn in question) when the sum demanded in damages does not exceed thirteen dollars and thirty three cents, notwithstanding the note, account or other contract might originally have exceeded that sum, and to give judgment therein. And either party aggrieved at the judgment given by any justice of the peace in any civil cause may appeal therefrom to the next Civil jurisdiction of Justices of the peace.
Appeal.

court of common pleas to be holden in the same county, provided the appeal be claimed within two hours after the judgment is rendered and entered.

Defendant
pleading the
general issue.

SECT. 2. *And be it further enacted*, That when an action of trespass shall be brought before any justice of the peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question. And when in any such action the defendant shall plead a special plea, whereby the title of real estate shall be drawn in question, the justice shall record such plea, and no further proceedings shall be had thereon before the justice; and the plaintiff may carry an attested copy of the writ, declaration, plea and all other papers filed in the same cause to the next court of common pleas to be holden in the same county; and is hereby authorised and empowered to enter in said court his said action, and prosecute the same to final judgment, as in cases originally commenced at said court of common pleas; and the justices of said court are hereby empowered to take cognizance of said action, and the defendant shall be holden by his said plea, and the proceedings subsequent thereto shall be the same as though the action had been commenced and prosecuted so far at said court. And in case the plaintiff shall not enter said action at said court, upon complaint made by the defendant, the justices of said court shall allow him his full costs, both before the justice and at said court. Provided, That in case the plaintiff shall immediately on the defendant's plea being filed before the justice as aforesaid, pray leave to become nonsuit, that liberty shall be granted him by the said justice, and costs shall be taxed for the defendant.

Special plea.

Writs to be
endorsed.

SECT. 3. *And be it further enacted*, That all writs issuing from justices of the peace shall be served fourteen days before the time of trial, and before they are served be endorsed by the plaintiff or his attorney, if living within this state, otherwise by some responsible person living therein; and the endorser shall, in case the defendant recover cost, be holden and liable for said cost in the same way and manner as endorsers of writs returnable to the courts of common pleas, by law now are. And any justice of the peace may, upon application, issue *scire facias* in due form of law against such endorser for said cost.

No action to
be commenced
at C. C. P.
except.

SECT. 4. *And be it further enacted*, That no action shall be commenced at any court of common pleas in this state, except where title of real estate is in question, wherein the sum demanded in damages shall not exceed the sum of thirteen dollars and thirty three cents.

Defendant
may give any
evidence except.

SECT. 5. *And be it further enacted*, That the defendant in any cause triable before a justice of the peace, may give any special matter in evidence under the general issue, excepting such as may bring the title of real estate in question.

SECT. 6. *And be it further enacted*, That the same mode with respect to bail on mesne process and taking bond upon execution for the liberty of the prison yard, shall be observed upon writs and executions issuing from justices of the peace, as the laws now in force point out with respect to bail on mesne process returnable to, and taking bond on execution issuing from the courts of common pleas. Provided, That nothing in this act contained shall be construed to affect an act of this state, entitled, "An act in addition to an act regulating bail in civil causes," made and passed December 15, 1797. Mode with respect to bail. Proviso

SECT. 7. *And be it further enacted*, That any constable to whom any writ or other legal precept may be directed by virtue of this act, be, and hereby is fully empowered and directed to serve and return the same according to law. Constable empowered to serve.

SECT. 8. *And be it further enacted*, That the first and second sections of an act, entitled, "An act for establishing courts of law for the administration of justice within this state, and designating their powers and regulating their proceedings in certain cases;" also an act, entitled "An act to enlarge the civil jurisdiction of justices of the peace within this state, and directing constables in certain cases to serve writs and other legal precepts;" also an act, entitled, "An act in addition to, and also to make perpetual an act to enlarge the jurisdiction of justices of the peace within this state, and directing constables to serve writs, and other lawful precepts," passed February 21, 1794; also, an act, entitled, "An act to make special pleading in causes triable before justices of the peace unnecessary," be, and the same are hereby repealed: Provided, that no action now pending shall be affected hereby. Repealing clause. Proviso.

SECT. 9. *And be it further enacted*, That this act shall not take effect until the first day of January next. When to take effect.

Approved June 22, 1810.

AN ACT empowering the Superior Court of Judicature of this State, to hear and try any causes respecting or relating to the forfeitures of lands within this state, heretofore granted, or that may hereafter be granted, for non-performance of the conditions of such grants, to determine and give judgment therein, that such forfeiture is or is not incurred, and to judge and decree as a court of chancery, in certain of the causes aforesaid. Passed Feb. 6, 1789.

WHEREAS divers grants or charters of lands in New-Hampshire have been made by the supreme executive power, to persons associating to settle and improve such lands, or to individuals applying for such grants, all of which grants were made on certain conditions of settling such lands, or making certain improvements thereon, within a limited time;

and whereas some of the lands so granted may have been, or may yet be forfeited according to the spirit and meaning of the conditions contained in, or annexed to such grants or charters, by a non-performance of said conditions; and whereas the same may hereafter take place respecting similar grants that may be made by this state on conditions; and whereas the liberty and safety of the subject require, that lands so granted should not be entered upon and possessed, or re-granted upon mere suggestions, without the intervention of proofs and trial by jury according to the constitution and laws to ascertain the performance or non-performance of such conditions; Therefore,

Superior court to determine all causes relative to charters or grants of land.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the justices of the superior court of judicature of this state, shall have full power, jurisdiction and authority throughout this state, to hear, try and determine all causes and matters that may come before them touching the force and validity of any such grants, or the performance or non-performance of conditions annexed to, or contained in any charters or grants made, or that may be made as aforesaid, or touching or concerning any of the matters aforesaid.

Mode of process.

And the ordinary mode of proceeding upon the matters aforesaid, in the said court, shall be as follows: upon complaint made in writing to the chief, or one other justice of said superior court, by the attorney general, or any other person empowered by the general court, in behalf of the state, that any person or persons claiming lands by virtue of any charter or grant as aforesaid, have forfeited the same by a non-performance of the conditions of the grant or charter thereof, or upon a like complaint of any person or persons claiming such lands by another and like grant of the same, and suggestion of such forfeiture as aforesaid made in writing as aforesaid, a summons shall issue from said court, tested by the chief, or one other justice, and signed by the clerk, founded on said complaint, requiring the person or persons against whom it is made, to appear and answer thereto before said court, at the next term or session of the same, in the county where such land lies, which summons shall be served and returned as the law requires in civil causes. And in

Grantees may plead severally.

case the complaint shall be against a number of grantees claiming by the same grant, each one may appear for himself, and shall have liberty to make his several plea; and upon such person or persons, summoned as aforesaid, appearing at said court in person, or by attorney, and making his, her or their plea, or answer to said complaint, denying the matters therein alleged, or pleading performance of the conditions of the grant, and putting the issue to the country, the court shall proceed to hear and try the cause, and commit it to jury empaneled and sworn to try the issue; who shall make and return to the said court, their verdict

And the trial to be by jury.

thereon, generally or specially, as the fact to them, on the evidence, shall appear. And if the person or persons, summoned as aforesaid, shall not appear, the court shall, notwithstanding, hear the evidence and proofs adduced, and try the truth of the matters alleged and set forth in the complaint, by a jury as aforesaid: provided always, that when any person or persons, other than those employed by and in behalf of the state, who shall enter complaint, or prosecute any suit in said court, and shall not support his title, and obtain judgment in his favour, costs shall be taxed for the defendant or defendants, as in other courts. And provided also, that said complainant (not being employed by and in behalf of the state) shall, previous to a summons being issued, give bond in a reasonable sum, with sureties to pay all such costs.

Where the defendant doth not appear.

Complainant not employed by the state to pay costs in case.

SECT. 2. *And be it further enacted,* That when, and so often as the verdict of the jury, in any such case, shall be, that the conditions of the grant have not been performed, and that the lands are forfeited, the person or persons against whom such verdict shall be found, shall have liberty thereupon to shew to said court their reasons, if any they have, which shall be in writing, why said lands, in equity and good conscience, should not be forfeited, although by the rigour of the law, a forfeiture be incurred; and said court shall judge of the same according to equity, and good conscience. And if on mature deliberation, the court shall judge the reasons so given, to be sufficient, they shall briefly recite them in the judgment rendered, which shall be, in such case, that such lands in equity ought not to be, and are not forfeited; but if no reasons be given, or those offered be judged insufficient, the judgment shall be, that said lands are forfeited for the use of this state, and if any reasons were given and determined to be insufficient, the same shall also be briefly recited in the judgment. And the said court shall, within thirty days after said judgment rendered, transmit the original verdict of the jury, signed by the foreman, after the same shall have been recorded, together with a copy of their judgment, both attested by the clerk, and under the seal of the court, to the secretary of the state, to be laid before the general court at their next session.

Where the jury find forfeiture the court shall judge in equity.

Judgment to be transmitted to the secretary.

SECT. 3. *And be it further enacted,* That in all cases where the lands found and declared to be forfeited by verdict and judgment made, rendered and transmitted as aforesaid, shall not have been re-granted by the same authority, such lands shall thereupon be considered as being immediately upon and after the proceedings aforesaid, in the possession of this state, without any actual or formal entry thereon, unless some person or persons shall be in the actual possession thereof, and so much time hath elapsed during such possession as would take away the entry of a private person.

The state shall be considered as in possession of lands adjudged forfeited.

Re-grantees
may enter
their claim,

But in all cases where the lands so found and declared forfeited as aforesaid, shall be, or have been re-granted as aforesaid, such second or other grantee or grantees, shall have liberty to appear in said court, at, and upon the rendering the judgment of forfeiture as aforesaid, and by his, her or their petition or motion, in writing, may set forth said re-grant, and his, her or their performance of the conditions of the same, and pray the court to be heard thereupon, and on the matters respecting the improvements by him, her or them made, on said lands, and the court shall thereupon proceed to hear the same, and try and inquire by a jury, or by hearing the proofs themselves, at the option of such party, whether said conditions have been performed by such second or other grantee or grantees, and of the improvements by him, her or them made thereon, and of the value of the same improvements; and upon such performance being found, and the value of such improvements being ascertained as aforesaid, the said court shall, as a court of equity or chancery, maturely consider, determine and decree, what to right and equity belongs, between the state and such second or other grantee or grantees, either that the state shall, before having possession of such lands, pay to such grantee or grantees, the value of said improvements, or so much of the same as shall be thought reasonable, considering the circumstances attending the taking out such second or other grant, as well as all other circumstances, or that such grantee or grantees shall pay the state the value of said lands, considered as in an uncultivated state, or as the same were before said improvements were made, and upon such payment shall hold and have all the title of the state to said lands, or the decree may be conditional, that such grantee or grantees pay said value of said lands, and keep and hold the same as aforesaid, or else receive the value of the improvements as aforesaid, and deliver possession of said lands to the state, at the option of such grantee or grantees.

and the court
shall deter-
mine the
same in equi-
ty,

or render a
conditional
judgment.

Value of land
to be ascer-
tained.

Judgment to
be transmit-
ted to the se-
cretary.

Judgment to
be in equity,
or condition-
al in all cases.

And whenever it shall be necessary to ascertain the value of such land, considered as uncultivated, or as it was before such improvements made, the same shall be inquired of, and determined as is herein before directed, respecting the value of such improvements as aforesaid.

SECT. 4. *And be it further enacted*, That the said court shall transmit such their equitable determination and decree in all such cases, together with the verdict and judgment of forfeiture, as aforesaid, to the secretary as aforesaid; any thing herein before to the contrary notwithstanding.

SECT. 5. *And it is also enacted*, That the same proceedings shall be had, equitable or conditional judgment given, and allowance made for improvements in all cases where the first grantees are parties, or where the re-grantees put in their claim as aforesaid.

SECT. 6. *And be it further enacted by the authority aforesaid,* That if such grantees or re-grantees shall not comply with, and fulfil the equitable determination or decree of said court, by delivering possession of such lands to the attorney general, or agent for the state specially appointed, within thirty days after being paid the said determined value of his, her or their improvements, and being thereto requested, in case the decree shall order such compensation, or shall not pay to the said attorney general, or agent, within ninety days after such decree made, and request the determined and decreed value of said land in its uncultivated state, or as it was before said improvements made, or secure the payment thereof, in cases where such payment shall be decreed to be made by such grantee or grantees, then, and in every such case upon such neglect, the attorney general, or any agent or attorney specially appointed, may, and shall bring a writ of scire facias in the same court, which shall be considered, and shall be a court of chancery for that purpose, to repeal such second or other grant or charter, made without any forfeiture being found by inquest; and if the same shall be repealed, the land so re-granted shall be considered as immediately in possession of the state, unless in cases where the entry of a private person would have been unlawful, and in such cases an action shall be brought by the state for the recovery of the possession of said land:—and the state, whensoever it shall have possession of any lands which had been before granted, may grant the same.

The attorney general or agent to bring scire facias to repeal the grant when the judgment is not complied with.

SECT. 7. *And be it further enacted,* That in all cases where a forfeiture shall have been found and declared by verdict and judgment made, rendered and transmitted as aforesaid, of lands which have not been granted a second time, if the person or persons who claimed the same by virtue of a grant as aforesaid, shall enter upon, or hold possession thereof after the proceedings aforesaid, an action shall be brought by the state for the recovery of the possession, unless such lands shall have been granted by mistake, after proceedings aforesaid being had, and while the same was in possession of the state.

Lands declared forfeited and withheld to be recovered by action.

SECT. 8. *And be it further enacted,* That the jurors attending said court and trying the matters and causes aforesaid, shall be paid out of the treasury of the state the same sum for travel as jurors have by law in other civil causes, and the foreman the sum of five shillings, and each other juror the sum of four shillings per day for and during their attendance at said court.

Jurors to be paid out of the treasury

SECT. 9. *And be it further enacted,* That the said justices of the said superior court shall have power to issue venires for juries to attend said courts, to try all causes and matters herein before directed to be tried by a jury, in the manner directed by law in civil cases. And the said court shall have power and authority, and power and authority is

The court to issue venires and to appoint times of sitting.

hereby given to the justices of said court to appoint from time to time as occasion shall require, terms in each county in this state, for hearing and trying the matters and causes aforesaid, at which any person or persons complained of as aforesaid may be summoned to appear and answer as afore said, or the justices of said court may adjourn from the terms now stated by law, or from such terms so by them appointed for the purposes aforesaid; of which all persons concerned are to take notice and govern themselves accordingly.

Passed February 6, 1789.

Passed June 19, 1794.

AN ACT in addition to an act, entitled, "An act empowering the Superior Court of Judicature of this State, to hear and try any causes respecting or relating to the forfeitures of lands within this state, heretofore granted, or that may hereafter be granted for non-performance of the conditions of such grants, to determine and give judgment therein, that such forfeiture is, or is not incurred, and to judge and decree as a court of chancery, in certain of the causes aforesaid."

WHEREAS by reason that grantees of lands in this state, or those who claim title under them are frequently unknown, and process against them cannot be served in the usual manner; Therefore,

Complaint being made, notice to be given.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That whenever complaint shall be made to the chief justice, or any other justice of said court, agreeably to the directions in said act, it shall be the duty of such justice, to make, or require the clerk to make an order in writing, directing the substance of said complaint, with a copy of such order, to be published in some newspaper printed in the county where the land in question lies, if a newspaper is printed in such county, otherwise in a newspaper printed in some county adjacent or near the county where such land lies, and also in the New-Hampshire Gazette three weeks successively, and also to be posted up in some publick house in the shire town of the county where the same land lies, for the space of six weeks, to be notified in each way, six weeks prior to the sitting of the court at which said complaint is to be entered and heard; which order being complied with, shall be a good and sufficient service of such process. And the said court is hereby authorized and required, upon proof before them of a service being made as aforesaid, to proceed, and determine upon the objects of said act, agreeable to the directions therein contained, any law, usage or custom to the contrary notwithstanding.

S. C. to determine disputes concerning bridges, canals, &c.

SECT. 2. *And be it further enacted,* That where any dispute shall arise concerning any bridges, canals, or locks

in this state which have been, or shall hereafter be granted by this state on certain conditions, the said superior court shall be a court of equity, to determine such dispute between the state and the grantees, their heirs or assigns, in the same manner as they are empowered to determine disputes concerning grants of lands, and the said court are hereby authorised and empowered to hear and determine the same accordingly. Provided, that in all such disputes the service of the original process shall be made on some principal proprietor or proprietors, or their clerk, by giving him, her or them an attested copy of the complaint, and order to be made as aforesaid, or leaving the same at his, her, or their usual place of abode, at least six weeks prior to the sitting of the court where such complaint is to be entered and heard.

Approved June 19, 1794.

AN ACT establishing a Supreme Judicial Court, and Circuit Courts of Common Pleas. Passed June 24, 1815.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That there shall be a supreme judicial court, holden in the respective counties in this state, at the times and places herein after mentioned; which said court shall consist of a chief justice and two associate justices and no more, each of whom shall, after the passing of this act, be appointed by the governor and council, and commissioned as the constitution directs. And the said court shall have all the jurisdiction and powers by law now vested in the superior court of judicature; and all regulations and provisions of existing laws, applicable to the superior court of judicature, and not inconsistent with this act, shall hereafter apply to the said supreme judicial court: and that all judgments, orders, pleadings, records, processes, proceedings, matters and things whatsoever, now existing and remaining in said superior court of judicature, shall be, and the same hereby are, transferred to said supreme judicial court, and may be proceeded on, enforced, and carried into execution, in said supreme judicial court; and writs of review, scire facias, and all other writs, processes, and proceedings whatsoever, founded thereon, or concerning the same, shall be had, sustained, taken cognizance of, prosecuted, tried, and determined, in said supreme judicial court, in like cases and in the same manner as if the same had been judgments, orders, pleadings, records, processes, proceedings, files, and matters, of or in the said supreme judicial court hereby established; and all such records and files shall be considered as records and files of the same supreme judicial court, to all intents and purposes.

Supreme judicial court constituted.

One chief justice and two associate justices.

Powers.

Causes in the superior court transferred to the supreme judicial court.

Writs, &c sustained.

Times and places of holding the court by two or more judges.

SECT. 2. *And be it further enacted,* That from and after the passing of this act, the said supreme judicial court

shall be holden, annually, at Portsmouth and Exeter alternately, in and for the county of Rockingham, on the fourth Tuesday of November : at Dover, on the third Tuesday of November, in and for the county of Strafford : at Amherst and Hopkinton alternately, on the second Tuesday of December, in and for the county of Hillsborough : at Keene and Charlestown alternately, on the third Tuesday of December, in and for the county of Cheshire : at Haverhill and Plymouth alternately, on the fourth Tuesday of December, in and for the counties of Grafton and Coos : by the justices of the said supreme judicial court, any two of whom shall constitute a quorum for holding the said court, and discharging all the duties thereof, at any of the times and places aforesaid. And it shall be the duty of said justices, or any two of them, to hold a special court in and for the county of Coos, at Lancaster, in said county, for the trial of any indictment for any crime, which, by the laws of this state, may be punished with death, or imprisonment for life : and said court shall be holden as soon as conveniently may be after such indictment be found ; reasonable notice whereof shall be given to all concerned, by a clerk of said court, under the direction of the chief justice thereof.

SECT. 3. *And be it further enacted,* That from and after the passing of this act, the said supreme judicial court shall be holden, annually, at Portsmouth, on the third Tuesday of February, and at Exeter on the third Tuesday of September, in and for the county of Rockingham : at Dover, on the first Tuesday of February, and first Tuesday of September, in and for the county of Strafford : at Amherst, on the first Tuesday of October, and at Hopkinton on the third Tuesday of April, in and for the county of Hillsborough : at Keene, on the third Tuesday of October, and at Charlestown on the first Tuesday of May, in and for the county of Cheshire : at Haverhill, on the third Tuesday of May, and at Plymouth on the first Tuesday of November, in and for the county of Grafton : and at Lancaster, on the fourth Tuesday of May, in and for the county of Coos ; by any one or more of the justices of said court.

SECT. 4. *And be it further enacted,* That all writs, recognizances, warrants, complaints, and every other matter and thing, that should, after the passing of this act, be returned to, or entered at, the superior court of judicature, at the times and places heretofore appointed ; and all parties and persons, that may be required or directed to appear and attend after that time, at the aforesaid times and places of the aforesaid superior court of judicature ; and all actions, matters, and suits, that may be pending in the same superior court on the day of passing this act ; shall be returned to, entered, appear and attend, have day, be tried and determined, in the aforesaid supreme judicial court, at the re-

Times and places of holding the court by one judge or more.

Rockingham.

Strafford.

Hillsborough.

Cheshire.

Grafton.

Coos.

Writs, &c. returnable to the superior court of judicature, may be returned to the supreme judicial court.

spective times and places established by this act, pursuant to the true intent and meaning thereof.

SECT. 5. *And be it further enacted,* That whenever the said supreme judicial court shall be holden by any one of the justices thereof, it shall be lawful for any party, thinking himself aggrieved by any opinion, direction, or judgment of the said justice, in any action or process of a civil or criminal nature, to allege exceptions to the same at the term of said court when such opinion, direction, or judgment, shall be given or pronounced; and such exceptions being reduced to writing, in a summary mode, and presented to the court before the adjournment thereof without day, and found conformable to the truth of the case, shall be allowed and signed by the justice holding said court: and thereupon all such action or process, in or upon which judgment shall not have been rendered at the time of allowing such exceptions, shall be continued to the next term of said court, to be holden in said county pursuant to the second section of this act, subject to the provisions herein after contained; and such action or process, wherein exceptions shall be alleged to the final judgment of the court thereon, shall likewise be continued in the same manner, and execution thereon shall be stayed; but without prejudice to any attachment made on the original writ in any civil action.

Exceptions may be alleged to the judgment of one justice.

Action shall be continued

Subject to provisions herein after contained.

Provided, however, That no trial by jury shall be delayed or prevented, by the making or filing of exceptions to the opinion or judgment of the court, upon any dilatory plea, or upon any question of law arising during the trial: and whenever it shall appear to the court that the exceptions, in or after the trial of any cause, are frivolous, immaterial, or intended for delay, judgment may be entered, and execution awarded, or stayed on such conditions as the court may deem reasonable, notwithstanding the allowance of the proceedings; and the courts to which actions may be continued, upon exceptions filed and allowed, shall have cognizance thereof, and shall do therein what to law and justice shall appertain.

Proviso.

SECT. 6. *And be it further enacted,* That all indictments that may be found for any crime, which, by the law of this state, may be punished with death, or imprisonment for life, and all motions and petitions for new trials, and all appeals from judgments or decrees of judges of probate, and all questions of divorce and alimony, questions of law on statement of facts agreed by the parties, or special verdicts, and all issues in law, shall be heard, tried, and determined, exclusively in the courts which are to be holden pursuant to the second section of this act, by two or more of the justices of the said supreme judicial court; and all appeals from the circuit courts of common pleas, and all other actions, processes, matters and things, civil and criminal, whereof the superior court of judicature hath heretofore

Indictments, &c. to be tried by two or more judges.

Appeals from the circuit courts, &c. may be tried by one judge.

had, or the said supreme judicial court, by this act, hath cognizance, may be heard, tried, and determined, subject to the provisions aforesaid, at the court which may be holden by one or more justices pursuant to the third section hereof.

Actions, &c.
cognizable by
two or more
judges being
determined,
one judge
may continue
to hold the
court.

SECT. 7. *And be it further enacted,* That whenever on actions, processes, issues and matters, which are by the provisions of this act cognizable by the aforesaid justices, or any two of them, all trials and decisions shall have been had at any court provided by the second section of this act to be holden, any one of the said justices may continue to hold the same court, for the trial of all causes, actions and issues, which are cognizable by one or more of said justices, pursuant to the provisions of the third section of this act.

For want of
quorum, one
justice may
adjourn from
day to day.

SECT. 8. *And be it further enacted,* That whenever by sickness, accident, or any unforeseen cause, the number of justices requisite to hold terms of the said court by the second section of this act, do not attend on the day appointed for holding said court, that any one of said justices may adjourn the court, from day to day, until a sufficient number of said justices shall attend; or to the next stated term of the said court; and that whenever by sickness, accident, or any unforeseen cause, one of said justices does not attend at the several times and places appointed for holding courts by the third section of this act, the sheriffs of the several counties shall have power to adjourn the court, from day to day, until a justice shall attend.

Sheriff may
adjourn.

Judgments
may be re-
viewed.

SECT. 9. *And be it further enacted,* That all judgments rendered in said supreme judicial court, may be reviewed in the same manner as causes are now reviewed in the superior court of judicature. And all judgments heretofore rendered in said superior court of judicature, and which shall be open to review at the time of the passing of this act, may be reviewed in the said supreme judicial court, in the same manner as judgments rendered in said supreme judicial court may be reviewed by the provisions of this act.

Clerks to be
appointed.

SECT. 10. *And be it further enacted,* That the justices of said supreme judicial court shall have power to appoint such and so many clerks as shall be necessary, and to prescribe their respective duties; and the records of said court shall be kept in the respective counties.

Arrange-
ments for the
court by sin-
gle judge.

SECT. 11. *And be it further enacted,* That the justices of the supreme judicial court shall have power, from time to time, to make such arrangements for holding said court pursuant to the third section of this act, as will, as far as may be, enable any justice, holding the same, in any county, to transact all the business which may be pending before said court.

Salaries.

SECT. 12. *And be it further enacted,* That the chief justice of the said supreme judicial court have and receive out of the treasury of this state, the sum of fifteen hundred

dollars, annually, as a salary for his services as chief justice; and that each of the associate justices of said court have and receive out of the treasury of this state, the sum of twelve hundred dollars, annually, as their respective salaries, for their services as justices of said court; which salaries shall be paid in quarterly payments as the same become due, by warrant on the treasurer of the state.

SECT. 13. *And be it further enacted*, That the clerks of the said supreme judicial court shall, at least twice in each year, account with, and pay to the treasurer of this state, all sums of money by them received, in their aforesaid capacities, not otherwise appropriated by law; and it shall be the duty of the justice presiding at any term of said court, at the close thereof, to certify the account of the clerk attending; and the clerks of the said supreme judicial court shall have and receive the same fees as the clerk of the aforesaid superior court of judicature now has and receives.

Clerks to account with the treasurer of the state.

SECT. 14. *And be it further enacted*, That this state shall be, and hereby is, divided into two circuits, to be limited, known and called, as follows, to wit: the counties of Rockingham, Strafford, and Hillsborough, shall form one circuit, and be called the *Eastern Circuit*; the counties of Cheshire, Grafton, and Coos, shall form one circuit, and be called the *Western Circuit*.

Two circuits.

Eastern.

Western.

SECT. 15. *And be it further enacted*, That there shall be holden, and kept in each county in the circuits aforesaid, at such times and places as are herein after appointed, a circuit court of common pleas, to consist of one chief justice and two associate justices, each of whom shall be an inhabitant of the circuit within which he may be appointed a judge; and when appointed and commissioned, as by the constitution is provided, they, or any two of them, shall be a court in their respective circuits, and shall have exclusive, original jurisdiction of all civil actions arising or happening within their respective circuits, of what nature or species soever the same may be, (excepting, however, such actions wherein the supreme judicial court, or where justices of the peace, have original jurisdiction;) and shall also have jurisdiction of all such offences, crimes, and misdemeanors, as before the passing of this act were cognizable by the respective courts of common pleas; and shall also have appellate jurisdiction of all civil actions, and of all crimes and offences, where an appeal may now by law be made from the sentence or judgment of a justice of the peace to the court of common pleas: and the same court are hereby fully authorized to give judgment, award execution, to administer all necessary and proper oaths and affirmations, and to do, execute, perform and order whatever by the constitution and laws it shall be their duty to do, or whatever the courts of common pleas before the passing of this act were au-

Circuit court of common pleas.

Original jurisdiction.

Appellate jurisdiction.

Salaries. **thorized to do :** And the justices of said circuit courts of common pleas shall respectively receive the same compensation for their services as the justices of the courts of common pleas now receive in their respective counties, and be paid in the same manner ;* and the fees to be paid to the clerks of the circuit courts of common pleas shall be, in all instances, the same as were before passing of this act, payable to the clerks of the courts of common pleas.

* See act of June 21, 1811, p. 84.

Style of writs, &c.

SECT. 16. *And be it further enacted,* That all writs and processes, issuing from the circuit courts of common pleas, shall be *in the name of the State of New-Hampshire*, bear test of the chief justice, when not a party, and of one of the associate justices when the chief justice is a party, or his office is vacant ; and where any two justices are, for any reason, disqualified to sit in the trial of any action, the remaining judge shall constitute a competent court to try the same ; and such writs and processes shall be under the seal of the said court, and signed by the clerk of the said court to which the same may be returnable, and shall have force, be obeyed and executed in every county in this state ; and all original processes shall be summons, *capias*, or attachment, and shall be served and returned in the same way and manner as is now provided by law for the service and return of similar processes : and the forms of all processes and executions shall be so far altered and changed as to conform to the provisions of this act.

Appeal allowed to supreme judicial court.

SECT. 17. *And be it further enacted,* That any party aggrieved at the judgment of any circuit court of common pleas, in any real action, or in any personal action wherein said court has not final jurisdiction, wherein any issue has been joined, except in cases of judgment on default, may, at any time during the session of said court, appeal therefrom to the next supreme judicial court to be holden within and for the county where such judgment may be rendered ; and no execution shall issue upon the judgment appealed from : and in case the party appealing shall neglect to enter his appeal, the court appealed to may, upon complaint, render such judgment as law and justice may require.

Final jurisdiction.

SECT. 18. *And be it further enacted,* That in addition to the powers herein before enumerated, the said circuit court of common pleas shall have final and exclusive jurisdiction of all personal actions wherein the sum demanded in damages does not exceed the sum of one hundred dollars ; and said actions may be reviewed, within the same time, and in the same manner, that actions may now be reviewed in the superior court of judicature....And the justices of said court shall have power, from time to time, to make and establish all such rules for the entry of actions, and for the admission of attorneys, filing pleas in abatement, and demurrers to declarations, and for the orderly and well conducting of the business of the court, as they may deem proper ; pro-

Judges may establish rules, &c.

vided the same be not repugnant to the constitution and laws of this state.

SECT. 19. *And be it further enacted*, That the said circuit courts of common pleas shall have power to adjourn, from time to time, as may be necessary: And when any of the justices of the said court shall be detained from attending at the time and place at which said court by law or by previous adjournment was to have been holden, by means whereof there cannot be more than one of the said justices present, then, and in that case, any justice of the same court, being there present, shall constitute a quorum of the court, for the purpose of making the docket, and all necessary orders touching any suit, action, process, pleadings or proceedings, returnable to the said court, or depending therein, preparatory to the hearing, trial, or decision of such action, suit, process, pleadings, or proceedings; and also for rendering judgments on defaults or confession, and on agreement of the parties; and also for adjourning the same court, if necessary, unto a further day, until a quorum can be convened; or if neither of the justices of the same court shall be present, the said court may be adjourned by the sheriff of the county, until a quorum can be convened; of which he shall make publick notification, in writing, in the shire town in the county where the court was then to be holden.

May adjourn from time to time.

One judge a quorum for certain purposes.

No judge attending, sheriff may adjourn.

SECT. 20. *And be it further enacted*, That from and after the passing of this act, the jurors now required to attend the courts of common pleas in the respective counties, shall be required to attend the several circuit courts of common pleas, in the same manner, and under the same penalties, that they are now holden by law to attend the several courts of common pleas; and shall hereafter give their attendance on such days of each term, as shall be directed by the justices of the said circuit courts of common pleas respectively; and the writs of venire facias shall issue accordingly; and the records of said court shall be kept in the respective counties.

Jurors to attend.

Records where kept.

SECT. 21. *And be it further enacted*, That all actions, suits, matters and things, which are pending in the several courts of common pleas in this state, and all writs, executions, warrants, recognizances, appeals, and processes, which may issue previous to the first day of August next, returnable to, and which would have had day therein, had not this act been passed, shall be returnable to, and have day in, and be fully acted upon, by the circuit courts of common pleas, created by this act. And all parties, jurors, witnesses, and others, who are, or who would have been, holden to appear at the several courts of common pleas, hereafter to be holden in this state, shall be holden to appear at the next circuit court of common pleas, created by this act, in their respective counties. And the said circuit court of common

Actions pending,

returnable to circuit court.

Parties.

Power of the court.	pleas, shall, in the respective counties, have full power and authority to grant any executions to carry into effect any judgment rendered in the courts of common pleas, now in existence, in the same manner as the said courts might, had not this act been passed.—And the clerks of the several courts of common pleas shall do and perform all the duties incident to the office of clerk of the circuit court of common pleas, until the first session of a circuit court of common pleas in their respective counties, or until the justices of said circuit court of common pleas shall appoint their clerks: after which it shall be the duty of said clerks of said
Clerks, their duty.	courts of common pleas to deliver over all records, files, and papers, appertaining to their respective offices, to the clerks appointed in their respective counties.
Records to be delivered.	SECT. 22. <i>And be it further enacted</i> , That the circuit court of common pleas in the eastern circuit, shall be holden in the county of Rockingham, at Portsmouth, in said county, on the third Tuesday of January, and at Exeter, in said county, on the third Tuesday of August. In the county of Strafford, at Rochester, in said county, on the first Tuesday of January, and at Gilmanton, in said county, on the first Tuesday of August.—And in the county of Hillsborough, at Amherst, in said county, on the second Tuesday of February, and at Hopkinton, on the first Tuesday of September.—And the circuit court of common pleas in the
Eastern circuit to be holden.	western circuit, shall be holden in the county of Cheshire, at Keene, in said county, on the third Tuesday of March, and at Charlestown, in said county, on the fourth Tuesday of September. In the county of Grafton, at Haverhill, in said county, on the last Tuesday of February, and at Plymouth, in said county, on the second Tuesday of September.
Rockingham.	And in the county of Coos, at Lancaster, in said county, on the Tuesday preceding the last Tuesday of February, and on the first Tuesday of September.
Strafford.	SECT. 23. <i>And be it further enacted</i> , That the clerks of the aforesaid circuit courts of common pleas shall, immediately after each term of said court in their respective counties, account with and pay over to the respective county treasurers all monies by them received for the use of the counties; and it shall be the duty of the justice presiding at each term of said circuit, at the close thereof, to certify the account of the clerk attending.
Hillsborough.	SECT. 24. <i>And be it further enacted</i> , That all acts, and parts of acts, heretofore passed, within purview of this act, be, and the same hereby are, repealed.— <i>Provided, nevertheless</i> , That the sixteenth section of this act shall not go into operation, or take effect, until the first day of August next.
Western circuit.	
Cheshire.	
Grafton.	
Coos.	
Clerks to account with county treasurers.	
Former acts repealed.	
Proviso.	

Approved June 24, 1813.

AN ACT in addition to an act, entitled, "*An act establishing a Supreme Judicial Court, and Circuit Courts of Common Pleas,*" passed the twenty-fourth day of June, A. D. 1813. Passed Nov. 5, 1813.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the clerk of the late superior court of judicature shall be deemed and taken to be clerk of the supreme judicial court, established by the act to which this is an addition, until an appointment shall have been or shall be duly made by the said supreme judicial court, and the person so appointed qualified to discharge the duties of said office. And the said supreme judicial court shall have power to make all the necessary arrangements, as soon as circumstances will permit, for the keeping of the records of the supreme judicial court, in the several counties; and the said supreme judicial court may authorize any clerk of the circuit court of common pleas, in any county, or any other person whom they may appoint, to keep and certify the records, proceedings and doings of the supreme judicial court in such county. Clerk of S. C. continued till S. J. C. appoint a new one.
Records to be kept in each county.

SECT. 2. *And be it further enacted,* That the appointment of clerks, and the admission of attornies, shall be vested in, and exclusively exercised by, the said supreme judicial court, holden by all or any two of the justices thereof. Admission of attornies, &c.

SECT. 3. *And be it further enacted,* That whenever all or any two of the justices of the supreme judicial court shall attend at any term, or at any time during the session of the supreme judicial court, which may be holden by any one of the said justices pursuant to the third section of the act to which this is an addition, the said justices, so attending and holding said court, shall have cognizance of all matters and things whatsoever, whereof they may have cognizance at any court to be holden by virtue of the second section of said last mentioned act: *Provided, nevertheless,* That all questions of law shall be decided at the law term, except by consent of parties interested in such question. Two or more justices attending, shall have cognizance, &c.

SECT. 4. *And be it further enacted,* That executions and process, issuing from and made returnable to the supreme judicial court, may, if the said court shall think proper, be made returnable to a term of said court which shall commence after the next term; that is to say, to the second term, and not to the court next to be holden in the same county; provided the said next term be a law term. Executions returnable.

SECT. 5. *And be it further enacted,* That whenever it shall happen, that, in consequence of any legal disqualification of one or more of the justices of the said supreme judicial court, there shall not be a quorum of said justices for the trial of any cause pending in said court, any one of said justices, not disqualified as aforesaid, shall be, and hereby is. In case a justice is legally disqualified.

empowered to hear, try and determine such cause, and to make any order relative thereto, and award execution thereon, in the same manner as the justices of said court might do if present ; any law to the contrary notwithstanding.

In case of demurrer, one justice may render judgment.

SECT. 6. *And be it further enacted*, That whenever the said supreme judicial court shall be holden by any one of the justices thereof, such justice may render judgment in any cause that may be depending in said court, on demurrer, if it shall appear to the said justice that such demurrer shall have been or shall be made for the purpose of delay, or for frivolous and immaterial causes.

Approved November 5, 1813.

Passed Dec. 22, 1808.

AN ACT making further provision for the administration of Justice.

WHEREAS petitions are often preferred to the general court, praying for a restoration to a course of law ; which mode of relief is not only burdensome to the legislature, and the state, but also extremely expensive to individuals, who often live at a great distance from the place of holding said court : for remedy whereof,

Power of the justices of the superior court to grant reviews, &c.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened*, That the justices of the superior court of judicature be, and they are hereby, vested with the power of hearing and deciding, and granting one review or new trial, upon judgments rendered, or which may hereafter be rendered, in the superior court of judicature, in the court of common pleas, or before any justice of the peace ; and also in all cases where actions have been brought to the said superior court, or court of common pleas, or before a justice of the peace, and the same, through mistake, accident or misfortune, fail to be prosecuted to final judgment, if it shall appear to them that justice hath not been attained, and that a further hearing of the cause would (all circumstances considered) be just and equitable : and like remedy shall be granted to any person materially interested, who hath not been a party to the suit on which such judgment, may be rendered. And process on said review, or new trial, shall be by writ of review, as in other cases ; provided application by petition in writing, setting forth the reasons for said review or new trial, be made to said superior court, of which application due notice shall be given to the adverse party, if living within this state, otherwise to his agent or attorney who appeared for him in the cause. And all proceedings by virtue of this act, shall be under such rules and regulations, not inconsistent with the fundamental rules and principles of law, as to the said justices may seem reasonable, and best calculated for the attaining complete justice. Provided, that application be made

Process on review.

Proviso.

for a review or new trial as aforesaid, in any of the cases aforesaid, within the term of three years from the rendition of the original judgment, or the discontinuance or failure of the original suit.

SECT. 2. *And be it further enacted,* That all applications, new trials, and other proceedings to be had by virtue of this act, shall be in the county where the original cause was tried; and in all cases where such application for a review or new trial does not prevail, costs shall be taxed for the petitioner: and where such application for a review or new trial does prevail, the said justices may tax costs upon said petition in favour of the petitioner, in full or in part, if they shall (all circumstances considered) deem it just and equitable so to do; or said justices may grant such review or new trial, upon condition of the payment of the costs upon said petition, as well upon the payment of preceding costs, in whole or in part, or upon such limitations and restrictions, both as to the past as well as to any future costs of the applicant, as may be consistent with justice and equity.

Applications where to be made.

SECT. 3. *And be it further enacted,* That actions tried in the superior court of judicature, when the cause originated before a justice of peace, may be reviewed in the same manner as actions originating in the court of common pleas may be reviewed.

Actions commenced before justices of the peace.

SECT. 4. *And be it further enacted,* That an act made and passed December eleventh, in the year of our Lord one thousand eight hundred and four, entitled, "An act making further provision for the administration of justice," together with the several acts therein mentioned, be, and they hereby are, respectively repealed,

Act repealed

Approved December 22, 1808.



AN ACT in addition to an act, entitled, "An act making further provision for the administration of justice," passed December 22, 1808.

Passed June 21, 1811.

BE it enacted by the senate and house of representatives, in general court convened, That the superior court of judicature be authorized and empowered to grant one review or new trial in every case wherein they are vested with the power of granting the same by the act whereto this is an addition, provided an application for such review or new trial be made to the said court within six years from the rendition of judgment, discontinuance or failure in the original suit, rendered or happening previous to December twenty-second, one thousand eight hundred and eight; or provided a petition pursuant to any law existing at the time of the presentment thereof, had been entered and was pending in said court at the time of the passing of the act to which this

One review or new trial to be granted, on application within six years, &c.

is an addition, and that such petition still continue pending in said court ; any thing in the said act whereto this is an addition, to the contrary notwithstanding.

Approved June 21, 1811.

Passed June 21, 1811. *AN ACT establishing the salaries of the Justices of the Courts of Common Pleas.*

BE it enacted by the senate and house of representatives, in general court convened, That the justices of the courts of common pleas in this state, receive out of the respective county treasuries the sums herein after mentioned, as their respective salaries, to wit, each chief justice of the said courts in the counties of Rockingham, Strafford, Hillsborough and Cheshire, the sum of two hundred dollars, each other justice of said courts in said counties, the sum of one hundred and eighty dollars ; the chief justice of the court of common pleas in the county of Grafton, the sum of one hundred and eighty dollars, each other justice of said court in said last mentioned county, the sum of one hundred and sixty dollars ; and that said sums be in full for their services as justices of the courts of common pleas, to be paid in two equal payments semi-annually by the respective county treasurers. And the sums received by the clerks of said courts, by law payable to said justices, shall be paid to the respective county treasurers, any law or usage to the contrary notwithstanding.—Provided, nevertheless, That no justice shall receive, for his salary, a greater sum than his proportion of the sums received by the county treasurer at the terms of the courts at which he has attended as a justice.

Approved June 21, 1811.

Passed February 21, 1794. *AN ACT to abolish the Courts of General Sessions of the Peace, and to vest in the Courts of Common Pleas, all the judicial powers, authorities and jurisdiction, and all other powers, except granting taxes, heretofore by law vested in said Courts of General Sessions of the Peace.*

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the first day of October next, the several courts of common pleas by law established within this state, in their respective counties, be, and they hereby are vested with all the powers and authorities, touching all matters and things arising or happening within their said counties, which by law are now vested in and triable by the several courts of general sessions of the peace.

C. C. P. invested with powers of general sessions of the peace.

And it shall be the duty of the said courts of common pleas, within their respective counties, to hear, try and determine all indictments, complaints, petitions, causes, matters and things of any name or nature whatsoever, except granting taxes, in as full and ample manner, to all intents and purposes, and upon the same principles of law, as they are now triable before the said courts of general sessions of the peace; give judgment, grant appeals, award execution, inflict punishments and impose fines, which fines shall be paid over as the laws now in force direct for fines imposed by the court of sessions. And all appeals, which by law are now allowed from the justices of the peace to the said courts of general sessions of the peace, and all recognizances for appearances, entering complaints, and for appearances to give testimony at the said courts of general sessions of the peace, shall from and after the said first day of October next, be to the said courts of common pleas.

SECT. 2. *And be it further enacted*, That the several and respective clerks of the said courts of common pleas, be, and they hereby are empowered and directed annually to issue venirens for grand jurors in their several counties, to attend said courts, and for the same purposes as they have heretofore attended the courts of general sessions of the peace; which jurors shall be allowed the same fees, and paid in the same manner, as heretofore:—and all records, files, papers and documents of said courts of general sessions of the peace, shall be by said courts delivered over to the said courts of common pleas immediately after this act shall take effect—and no petit jury other than those usually attending the said courts of common pleas, shall be summoned to attend said courts. And the same fees heretofore receivable at the said courts of general sessions of the peace, shall from and after the time this act takes effect, be paid at the said courts of common pleas; and all that part of the fees, which by the present law is payable into the respective county treasuries by the said courts of general sessions of the peace, shall be paid to the said courts of common pleas, to be appropriated in the same manner, as fees in civil causes are by law appropriated. And all processes and other matters and things which may be returnable to, or pending in said courts of general sessions of the peace, at the time this act shall take effect, shall be by the said courts respectively delivered over to, and tried by the said courts of common pleas, in the same way and manner as they might or ought to have been tried by said courts of general sessions of the peace, had this act not been made.

SECT. 3. *And be it further enacted*, That the several county treasurers shall in the month of September annually, make out and certify, to the judges of the said courts of common pleas, at their next stated sessions, a particular statement of such treasury, and the said judges shall deter-

Clerks to issue venirens for grand jurors.

Jurors fees. All records, &c. to be delivered to C. P.

Fees.

County treasurers.

Clerks to attend general court.

Convention.

This section repealed by act p. 87, 88.

Judges to give order.

Repealing clause.

mine what monies are in their opinion necessary to be raised in said county for the year ensuing, stating in general the purposes for which such monies are or probably will be needed. And the clerks of the several courts of common pleas shall attend at the next session of the general court, and lay the same with a particular account of the expenditures and appropriations of the preceding year before the representatives of the county then assembled, who are hereby authorized and empowered at such session of the general court to form themselves into a convention for the sole purpose of granting and appropriating taxes for their county, and they may at such convention choose a chairman, and swear the clerk of the court attending, or in case of his necessary absence, appoint and swear some other person as a clerk, who shall keep a true record of all matters and things done in such convention, and the taxes which shall be voted by such convention or a major part thereof attending, shall be held good and valid in law, and may be assessed and collected by the county treasurers in the same manner as taxes which have been heretofore granted by the courts of general sessions of the peace have been collected; and the said judges shall from time to time make orders on the several treasurers, in their respective counties for paying out such monies agreeable to appropriations made by such conventions, where appropriations are by them made, and for other necessary county charges where an overplus is granted for contingencies, and the several treasurers are hereby authorized to pay out monies accordingly.

SECT. 4. *And be it further enacted*, That from and after the first day of October next, all the laws now in force, which relate to holding courts of general sessions of the peace in the several counties in this state, be, and they hereby are repealed so far as they are inconsistent with this act.

Approved February 21, 1794.

Passed June 17, 1794.

AN ACT in addition to an act, entitled, "An act to abolish the Courts of General Sessions of the Peace, and to vest in the Courts of Common Pleas, all the judicial powers, authorities, and jurisdiction, and all other powers, except granting taxes, heretofore by law vested in said courts of General Sessions of the peace."

Clerks of the courts of sessions to deliver all records, &c. to clerks of com. pleas.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened*, That upon the said act's being in force, the clerks of the courts of sessions for the several counties shall be, and hereby are directed to deliver over to the clerks of the several courts of common pleas, all the records, files and papers of the courts of sessions, and that the clerks of the courts of common pleas

shall have the same powers, with respect to the said records, files and papers, in certifying copies, and for all other purposes, after the act to which this is an addition, shall take effect, as the clerks of the courts of sessions have had, or may now have.

SECT. 2. *And be it further enacted,* That the several clerks when attending upon the convention named in said act, for the purpose of granting and appropriating taxes, shall be allowed and paid out of the county treasury the same travel and attendance as are paid to members of the general court for their travel and attendance; and that it shall be the duty of the said clerks, to certify to the several county treasurers, all such taxes as may be granted by the said convention. *Approved June 17, 1794.*

Clerks allowance and

Duty

AN ACT in addition to an act, to abolish the Courts of General Sessions of the Peace, and to vest in the Courts of Common Pleas, all the judicial powers, authorities and jurisdiction, and all other powers, except granting taxes, heretofore by law vested in said Courts of General Sessions of the Peace, passed February 21, 1794.

Passed June 12, 1801.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the several and respective members of the house of representatives in each county be, and hereby are authorized and empowered to form themselves at any time during the present session, into a convention for the sole purpose of granting and appropriating taxes for their county for the ensuing year; and they may at such convention choose a chairman, appoint and swear a clerk, who shall keep a true record of all matters and things done in such convention, and the taxes which shall be voted by such convention, or a major part thereof attending, shall be held good and valid in law, and may be assessed and collected by the county treasurers in the same manner as county taxes have been, and the judges of the several courts of common pleas in the several counties, shall from time to time make orders on the several county treasurers in their respective counties, for paying out such monies agreeable to appropriations made by such conventions, where appropriations shall by them be made, and for other necessary county charges when an overplus is granted for contingencies, and the several county treasurers are hereby authorized to pay out monies accordingly.

Members of H. of Representatives in each county to form themselves into convention.

SECT. 2. *And be it further enacted,* That the several county treasurers shall in the month of December annually, make out and certify to the judges of the said courts of common pleas, at their next stated term, a particular statement of such treasury, and the said judges shall determine what monies are in their opinion necessary to be raised in

County treasurers to certify state of county treasury.

Clerks duty.

said county for the year ensuing, stating in general the purposes for which such monies are or probably will be needed; and the clerks of the several courts of common pleas shall attend on the second Wednesday of the session of the general court in the month of June following, and lay the same with a particular account of the expenditures and appropriations of the preceding year, before the representatives of the county then assembled, who are hereby authorized and empowered at such session of the general court, to form themselves into a convention, for the sole purpose of granting and appropriating taxes for their county, and they may at such convention choose a chairman, and swear the clerk of the court attending, or in case of his necessary absence, appoint and swear some other person as clerk, who shall keep a true record of all matters and things done in such convention, and the taxes which shall be voted by such convention, or a major part thereof attending, shall be held good and valid in law, and may be assessed and collected by the county treasurers in the same manner as taxes which have heretofore been granted by the courts of general sessions of the peace have been collected; and the said judges shall from time to time make orders on the several treasurers in their respective counties, for paying out such monies agreeable to appropriations made by such conventions, where appropriations are by them made, and for other necessary county charges when an overplus is granted for contingencies: and the several treasurers are hereby authorized to pay out monies accordingly.

Judges to make orders and

Treasurers to pay.

SECT. 3. *And be it further enacted*, That it shall be the duty of the several county treasurers in the month of May annually, to furnish the several clerks of said courts of common pleas, with a true and full copy of their respective accounts, as the same has been allowed and settled by the judges of said courts, and it shall be the duty of said clerks to lay the same before the convention, on the second Wednesday of June annually.

Repealing clause.

SECT. 4. *And be it further enacted*, That the third section in the act aforesaid be, and hereby is repealed.

Approved June 12, 1801.

Passed June 28, 1787.

AN ACT for the more speedy recovery of small debts, and to save the cost usually attending the recovery thereof in the present course of the law.

Persons confessing a debt the justice shall enter up judgment and issue execution.

WHEREAS the common and ordinary method of recovering small debts proves very burthensome to poor debtors; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened*, That any person or persons, who shall voluntarily appear before any justice of

the peace, in the county where he, she, or they live, and confess that he, she, or they do justly owe, and stand indebted to any other person or persons in any sum not exceeding ten pounds, and that such person or persons consent that a record thereof be made, and execution issued accordingly, or be stayed for such time as may be agreed by the parties; the justice is hereby authorised and directed to make a fair record of such confession and agreement, and to order the person or persons so confessing, and likewise the creditor or his agent to sign the same; and the justice shall enter up judgment thereon, and issue execution according to such judgment. And such justice shall enter on the evidence of the demand, the sum for which judgment was confessed, together with the time and place of doing the same, and keep the same in a proper file for that purpose.

See act of 90
Dec. 1808, p.
90.

SECT. 2. *And be it further enacted*, That such execution may be served (within said county) in the same manner as executions issued from the inferior court by law may be done.

How executions may be served.

SECT. 3. *And be it further enacted*, That any two or more persons, having a controversy between them of ten pounds value, or under, may apply to a justice of the peace, and enter into a rule, to refer the same to such person or persons as they may agree upon. And the said justice is hereby empowered to receive the report, enter up judgment and issue execution thereon, for the damages and costs of suit: provided the damages do not exceed the sum of ten pounds: which report being received, and judgment entered thereon as aforesaid, the same shall be final and conclusive between the parties.

Persons having a controversy may refer the same.

See act of
Dec. 16, 1796.

Passed June 23, 1787.

AN ACT in addition to an act, entitled, "An act for the more speedy recovery of small debts, and to save cost usually attending the recovery thereof, in the present course of* law."*

Passed Dec.
16, 1796.

WHEREAS in and by said act, it is enacted, that any two or more persons having a controversy between them of ten pounds value or under, may apply to a justice of the peace, and enter into a rule to refer the same to such person or persons as they may agree upon, but by reason of the sum being limited to ten pounds or under, it is found not to answer the good purposes thereby intended; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That instead of ten pounds or under, as limited in and by said act, that two or more persons having a controversy between them of two hundred dollars value or under, may apply to a justice of the peace, and

200 dollars

* The omitted in the original.

enter into a rule to refer the same to such person or persons as they may agree upon, and the said justice is hereby empowered to receive the report, enter up judgment, and issue execution thereon for damages and costs of suit, provided the damages do not exceed the sum of two hundred dollars, which report being received and judgment entered thereon as aforesaid, the same shall be final and conclusive between the parties, any thing in said act to the contrary notwithstanding.

Approved December 16, 1796.

Passed Dec.
20, 1808.

AN ACT in addition to an act, entitled, "An act for the more speedy recovery of small debts, and to save the cost usually attending the recovery thereof in the present course of the law."

Persons may
make confession.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That any person or persons, who shall voluntarily appear before any justice of the peace in the county where he, she, or they live, and confess that he, she, or they, do justly owe and stand indebted to any other person or persons, in any sum not exceeding two hundred dollars, and that such person or persons consent that a record thereof be made and execution issued accordingly, or be stayed for such time as may be agreed by the parties; the justice is hereby authorized and directed to make a fair record of such confession and agreement, and to order the person or persons so confessing, and likewise the creditor or his agent, to sign the same; and he shall enter up judgment thereon, and issue execution according to such judgment. And such justice shall enter on the evidence of the demand, the sum for which judgment was confessed, together with the time and place of doing the same, in a proper file.

Confession to
be recorded.

Judgment
entered.

Execution to
be served.

SECT. 2. *And be it* further enacted,* That such execution may be served within the same county, in the same manner as executions issued on judgments rendered at the court of common pleas, or by justices of the peace, may by law be served.

Approved Dec. 20, 1808.

Passed June
21, 1797.

AN ACT for rendering the decision of civil causes more speedy and less expensive than heretofore.

WHEREAS it is the duty of the legislature to provide means whereby the decision of civil causes should be as speedy and attended with as little expense as the nature of things will admit:

Disputes may
be determined
by referees

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That when any persons who may have a dispute of what nature soever, shall agree to have the dispute determined by referees mutually

*It omitted in the original.

chosen by the parties for the purpose, it shall and may be lawful for the person or persons making the demand in the action to make out a particular statement thereof under his or their hands in writing, and to lodge the same with some one justice of the peace of the county in which either of the parties may dwell; and the said justice of the peace, on application of the parties for the purpose, shall make out an agreement to be annexed to the aforesaid demand, and to be by them or their lawful agents or attornies subscribed and acknowledged in substance as follows :

Town of _____ in the county of _____ Form of a-
 179 Know all men that A. B. of _____ in the greement.
 county of _____ and C. D. of _____ in the county
 of _____ have agreed to submit the demand made by
 the said A. B. against the said C. D. which is hereunto an-
 nexed, (and all other demands, as the case may be) to the
 determination of E. F. G. H. and I. K. the report of whom,
 or the major part of whom being made as soon as may be,
 to any judicial court to be holden in and for the said coun-
 ty of _____ judgment thereon to be final; and if either
 of the parties shall neglect to appear before the referees af-
 ter proper notice has been given of the time and place ap-
 pointed, by the referees for hearing the parties in this ac-
 tion, the referees shall have power to proceed *ex parte*.
 A. B.
 C. D.

ss. 179 Then the above named A. B. Acknowledg-
 and C. D. personally appeared and acknowledged the above ment.
 instrument to be their free act.

L. M. Justice of the Peace.

SECT. 2. *And be it further enacted*, That there shall be paid by the person or persons making the demand, *fifty cents* Justices fees
 unto the justice of the peace who may make out the agree-
 ment and take the acknowledgment thereof as aforesaid,
 which sum shall be added to the costs that may arise in the
 action for the determination of which the agreement and ac-
 knowledgegment were made as aforesaid.

SECT. 3. *And be it further enacted*, That the determi-
 nation of the referees who may be appointed agreeably to
 this act, shall be made known to the next judicial court, to Courts to
 be holden in and for the county in which the justice of the whom reports
 peace may have lived at the time he issued the agreement to be made.
 as aforesaid; and the said court to whom the report of
 the referees may be made as aforesaid, shall have cognizance
 thereof, in the same way and manner, and the same doings
 shall be had thereon as though the same had been made by
 referees appointed by a rule of the same court; and the jus-
 tices of said court to which a report shall be made by refe-

Fee of courts. rees appointed agreeably to this act, shall be entitled to *one dollar*, for each report so made, and the clerk of the court
 Clerk's fees. for recording the same shall receive *twenty five cents*.

SECT. 4. *And be it further enacted*, That where the parties shall agree that the determination of the referees may be made known prior to its being made to the said judicial court, it shall and may be lawful for the referees to make the determination known to the parties, without its affecting in any degree the validity thereof; and if the parties shall then agree to settle their dispute according to the determination of the referees, or otherwise without further process, the said referees may deliver to the parties the papers belonging to them respectively, otherwise to make report of their doings as before provided for in this act.

Determina-
tion of refer-
ees to be made
known to the
parties.

SECT. 5. *And be it further enacted*, That the referees that may be appointed in pursuance of this act, shall be vested with all the authority and power that referees have been or may hereafter be vested with who have been or shall be appointed by a rule of court; and witnesses may be summoned to appear before them and be sworn in the same manner as is or may be prescribed by law for summoning witnesses before referees appointed by a rule of court as aforesaid.

Power of ref-
erees.

Approved June 21, 1797.

Passed Feb. 11, 1791. *AN ACT prescribing the Forms of Writs in civil causes.*

[Sept. 15, 1792.] SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That in the cases following, these forms shall be used:

ATTACHMENT.

Attachment.

R ss. } THE STATE OF NEW-HAMPSHIRE.
 To the sheriff of any county in this
 state, or his deputy, Greeting.

We command you to attach the goods or estate of A. B. of, &c. (*addition*) to the value of pounds; and for want thereof to take the body of the said A. B. (if he may be found in your precinct) and him safely keep, so that you have him before our justices of our court of to be holden at within and for our said county of on the Tuesday of then and there in our said court to answer unto C. D. of H. &c. (*addition*) in a plea of

to the damage of the said C. D. as he saith, the sum of pounds, which shall then and there be made to appear, with other due damages, and have you there this writ, with your doings therein. Witness R. W. Esquire. at P. the day of Anno Domini

R. G. Clerk.

SUMMONS.

R ss. } THE STATE OF NEW-HAMPSHIRE. Summons
 . } To the sheriff of any county in this
 state, or his deputy, Greeting.

We command you, that you summon A. B. of C. &c.
 (addition) if he may be found within your precinct, to ap-
 pear before our justices of our court of to
 be holden at P. within and for our said county of
 on the Tuesday of then and there in our said court
 to answer to H. G. of S. (addition) in a plea of
 to the damage of the said H. G. as
 he saith, the sum of pounds, which shall then and there
 be made to appear, with other due damages; and have you
 there this writ, with your doings therein. Witness R. W.
 Esquire at P. the day of Anno Domini
 R. G. Clerk.

SUMMONS

WHEN GOODS ARE ATTACHED.

R ss. } THE STATE OF NEW-HAMPSHIRE. Summons
 . } To A. B. of P. &c. when goods
 (addition) Greeting. &c. are at-
 tached.

We command you, that you appear at our court
 of to be holden at P. in our said county of on
 the Tuesday of then and there to answer to P. Q.
 of R. (addition) in a plea of which plea the said P. Q.
 hath commenced against you, to be heard and tried at the
 said court, and your goods or estate are attached to the val-
 ue of pounds, for security to satisfy the judgment,
 which the said P. Q. may recover upon the aforesaid trial.
 Fail not of appearance at your peril. Witness R. W. Es-
 quire at P. the day of Anno Domini
 R. G. Clerk.

EXECUTION.

ss. } THE STATE OF NEW-HAMPSHIRE. Execution
 . } To the sheriff of any county in this
 state, or his deputy, Greeting.

Whereas R. Y. of K. (addition) by the consideration of
 our justices of our court of holden at P. for and
 within our county of aforesaid, on the Tues-
 day of recovered judgment against D. H. of B. (ad-
 dition) for the sum of debt or damages,
 and cost of suit, as to us appears of record, where-
 of execution remains to be done: we command you there-
 fore, that of the goods, chattels or lands of the said D. H.
 (within your precinct) you cause to be paid and satisfied un-

to the said R. Y. at the value thereof in money, the aforesaid sums being _____ in the whole, with

more for this writ ; and thereof to satisfy yourself for your own fees : and for want of goods, chattels or lands of the said D. H. to be by him shewn unto you, or found within your precinct, to the acceptance of the said R. Y. to satisfy the sums aforesaid, we command you to* take the body of the said D. H. and him commit unto either of our gaols within your precinct, and detain in your custody within our said gaol, until he pay the full sums above mentioned, with your fees, or that he be discharged by the said R. Y. the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said court of _____ to be holden at P. in our county of _____ aforesaid, upon the _____ Tuesday of _____ next. Witness R. W. Esquire at P. the _____ day of _____ Anno Domini _____ R. G. Clerk.

SECT. 2. *And be it further enacted,* That the writ for putting such into possession of any lands or tenements as shall recover judgment for the same, and for levying the cost and damages recovered upon such suit, commonly called a writ of *facias habere possessionem*, and writs of *feri facias*, as also the writ of *scire facias* to be issued out of the superior court, or court of common pleas respectively ; and the writ of replevin, shall be from time to time granted and issued in the forms following, (viz.)

**WRIT OF FACIAS HABERE POSSESSIONEM,
AND FIERI FACIAS.**

Fac. hab. poss.

ss. } THE STATE OF NEW-HAMPSHIRE.
To the sheriff of any county in this state, or his deputy, Greeting.

Whereas A. B. of C. (*addition*) before our justices of our _____ court of _____ holden at P. within and for our county of _____ aforesaid, upon the _____ Tuesday of _____ by the consideration of the justices of our said court, recovered judgment for, and title and possession of and in a certain _____ with the appurtenances, &c. lying and being in the town of C. against D. H. of G. (*addition*) who had unjustly withheld, put out or amoved the said A. B. from his possession thereof, and also at the said court recovered judgment for _____ for costs and damages which he sustained by reason of the same as to us hath been made to appear of record : We command you therefore, that without delay you cause the said A. B. to have possession of and in the said, &c.

We also command you that of the goods, chattels or lands of the said D. H. within your precinct, at the value thereof

* *To* is omitted in the original.

in money, you cause the said A. B. to be paid and satisfied the aforesaid sum of which to the said A. B. was adjudged for his cost and damages, and more for this writ; and thereof also to satisfy yourself for your own fees; and for want of such goods, chattels or lands of the said D. H. to be by him shewn unto you, or found within your precinct, to the acceptance of the said A. B. to satisfy the aforesaid sums, we command you to take the body of the said D. H. and him commit to our gaol in P. and detain in your custody within our said gaol until he pay the full sum abovementioned, with your fees, or that he be discharged by the said A. B. or otherwise by order of law. Hereof fail not, and make return of this writ with your doings therein, unto our said court of to be holden at P. upon the day of next. Witness R. W. Esquire at P. the day of Anno Domini

R. G. Clerk.

WRIT OF SCIRE FACIAS.

ss. { THE STATE OF NEW-HAMPSHIRE. Scire facias.
To the sheriff of any county in this
state, or his deputy,

Greeting.

Whereas A. B. of P. (*addition*) before our justices of our court of holden for and within our county of at P. on the day of by the consideration of our said justices, recovered against C. D. of E. (*addition*) the sum of debt or damages, and also cost and charges by him about his suit in that behalf expended, whereof the said C. D. is convict, as to us appears of record: and although judgment be thereof rendered, yet the execution for the said debt or damage, and cost doth yet remain to be made; whereof the said A. B. hath supplicated us to provide a remedy for him in that behalf: now to the end that justice may be done, we command you that you make known to the said C. D. that he appear before our justices of our said court of to be holden for and within our said county of at P. on the Tuesday of to shew cause, if any he have, wherefore the said A. B. ought not to have his execution against him the said C. D. for his debt or damage and cost aforesaid; and further to do and receive that which our said court shall then consider; and have you there then this writ, with your doings therein. Hereof fail not. Witness R. W. Esquire at P. the day of Anno Domini

R. G. Clerk.

age of the said R. W. (as he saith) the sum of shillings, as shall then and there appear with other due damages. Hereof fail not, and make due return of this writ, with your doings therein, unto myself, at or before the said day of Dated at P. aforesaid, the day of Anno Domini T. P.

ATTACHMENT.

State of	}	<i>To the sheriff of the said county of</i>	Attachment
New-Hampshire.			
	}	<i>or his deputy, or to either of the</i>	
R ss.			
	}	<i>constables of P. in said county,</i>	Greeting.

In the name of the state of New-Hampshire, you are required to attach the goods or estate of A. B. of P. aforesaid (*addition*) to the value of shillings, and for want thereof to take the body of the said A. B. (if he may be found in your precinct) and him safely keep, so that he may be had before me, S. P. Esquire, one of the justices of the peace for the county of aforesaid, at P. on the day of at of the clock in the noon, then and there to answer to E. T. of N. (*addition*) in a plea of to the damage of the said E. T. (as he saith) the sum of shillings, as shall then and there be made to appear, with other due damages. Hereof fail not, and make due return of this writ, with your doings therein unto myself, at or before the day of Dated at P. aforesaid, the day of Anno Domini S. P.

SUMMONS WHEN GOODS ARE ATTACHED.

State of	}	<i>To A. B. of P. in the county of</i>	Summons
New-Hampshire.			
	}	<i>(addition)</i>	when goods
ss.			
	}	Greeting.	&c. are attached.

In the name of the State of New-Hampshire, you are required to appear before me, S. P. Esquire, one of the justices of the peace for the county of aforesaid, at P. on the day of at of the clock, in the noon, to answer unto E. T. of M. (*addition*) in a plea of which plea the said E. T. hath commenced to be heard and determined before me, and your goods or estate are attached to the value of shillings for security to satisfy the judgment which the said E. T. may recover upon the aforesaid trial. Fail not of appearance at your peril. Dated at P. aforesaid, the day of Anno Dimini S. P.

EXECUTION OR WARRANT OF DISTRESS.

Execution.

R ss. } THE STATE OF NEW-HAMPSHIRE.
 To the sheriff of our county of or
 his deputy, or either of the constables
 of the town of P. within our said county,
 Greeting.

Whereas A. B. of P. (*addition*) on the day
 of before S. P. Esquire, one of our justices of the
 peace for our county of R. aforesaid, recovered judgment
 against C. D. of H. (*addition*) for the sum of debt
 or damage, and cost of suit, as to us appears of rec-
 ord : whereof execution remains to be done. We command
 you therefore, that of the money of the said C. D. or of his
 goods or chattels (within your precinct) at the value there-
 of in money, you cause to be levied, paid and satisfied unto
 the said A. B. the aforesaid sums, being in the
 whole, and also that out of the money, goods or chattels of
 the said C. D. you levy more for this writ, togeth-
 er with your own fees : and for want of such money, goods
 or chattels of the said C. D. to be by him shewn unto you
 or found within your precinct, to the acceptance of the said
 A. B. for satisfying the aforesaid sums ; we command you
 to take the body of the said C. D. and him commit unto
 our gaol in H. and we command the keeper thereof accor-
 dingly to receive the said C. D. into our said gaol, and him
 safely to keep, until he pay the full sums above mentioned,
 with your fees ; or that he be discharged by the said A. B.
 the creditor, or otherwise by order of law. Hereof fail not,
 and make return of this writ, with your doings therein, unto
 our said justice within sixty days next coming. Witness
 our said justice at P. the day of Anno Do-
 mini S. P.

SUBPŒNA.

Subpœna.

State of }
 New-Hampshire. } To
 R ss. } Greeting.

You are hereby required, in the name of the State of
 New-Hampshire, to appear at the court of to be
 holden at within and for the said county of on
 to testify what you know relating to a plea of

then and there to be heard and
 tried betwixt A. B. of &c. plaintiff, and C. D. of &c. de-
 fendant.

Hereof fail not, as you will answer your default under
 the pains and penalties of the law, in that behalf made and
 provided. Dated at P. the day of A. D.

A. D. Clerk.

Passed February 11, 1791.

AN ACT regulating Process and Trials in Civil Causes. Passed Feb 9. 1791.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That all writs and processes issuing from the superior court of judicature, court of common pleas and court of general sessions of the peace, shall be in the name of the State of New-Hampshire; shall be under the seal of the court whence they issue; shall bear test of the first justice of the court, who is not a party; and be signed by the clerk of such court; and may be directed to the sheriff, or his deputy, of any county, in this state, and shall have force in any county, be obeyed and executed by any officer, to whom the same shall be lawfully directed: and all original process, in any of the courts aforesaid, shall be summons or attachment, and shall be made out in the forms prescribed by law; and in civil causes shall be served and executed fifteen days before the sitting of the court, to which such process is returnable, and shall be by the officer who executed the same, returned to the court from whence it issued, agreeably to the command therein given; and all writs, issuing from any justice of the peace, shall be in the form by law prescribed, shall be under seal, signed by the justice, and may be directed to the sheriff, or his deputy, of the county for which such justice is commissioned, or to any of the constables of any town in the same county; and writs for trial before any justice of the peace shall be served and executed seven days before the day of trial, and shall be returned to the justice issuing the same.

[Sept. 15, 1792.]

Writs to be sealed, tested, signed and how directed.

Writs to be summons or attachment.

Service of writs.

Justices writs &c.

SECT. 2. *And be it further enacted,* That all writs, declarations, processes, indictments, answers, replications, and entries in the several courts of justice, and before any justice of the peace in this state, shall be in the English tongue, and no other.

Entries to be in English.

SECT. 3. *And be it further enacted,* That no summons, writ, declaration, return, process, judgment, or other proceeding in the courts, or course of justice, shall be abated, arrested, quashed, or reversed for any kind of circumstantial errors or mistakes, or for any errors or mistakes where the person or case may be rightly understood and intended by the court, nor through defect or want of form only: And justices of the peace, and the justices of the several courts of judicature, are respectively empowered, on motion made, to order amendment in any of the cases aforesaid.

Process not to abate for trivial errors, &c.

SECT. 4. *And be it further enacted,* That all personal or transitory actions, where both parties are inhabitants of this state, may be commenced in the county, wherein either of the parties to the suit may be an inhabitant, and not elsewhere in this state.

Transitory actions where to be brought.

Discontinu-
ance.

Nonsuit

SECT. 5. *And be it further enacted,* That if any person shall cause process to be served upon another, for any matter or cause, and shall neglect to enter his said process before the justice, or at the court, to which the same is returnable according to law, the said justice, and the several courts of judicature, are respectively empowered, upon complaint, to tax costs for the defendant, and to issue execution therefor; and if the plaintiff, after the entry of any action, shall become nonsuit, the defendant shall be allowed his reasonable costs.

Default

SECT. 6. *And be it further enacted,* That when any defendant shall be duly served with process, and return thereof shall be made unto the justice, or unto the court to which the same is returnable, and such defendant shall not appear, by himself, or his attorney, his default shall be recorded, and the charge in the declaration shall be taken and deemed to be true, and the justice, and the courts respectively, shall thereupon give judgment for such damages, as they shall find upon inquiry that the plaintiff hath sustained.

Default to be
taken off.

Provided, nevertheless, That if the defendant shall, after such default is recorded, and before the jury attending the same court, when and where such default was made, shall have been dismissed, or in case such default was made before any justice of the peace, then before the justice, the plaintiff, and his witnesses shall have dispersed, come into court, and request that the default may be taken off, and that he may have his day in court, the same shall be granted unto him, upon his paying unto the adverse party, the cost that then shall have arisen, or so much thereof as the court or justice shall judge reasonable.

Endorsement
of writs.

SECT. 7. *And be it further enacted,* That all original writs, issuing out of the superior court of judicature, or the court of common pleas, shall, before they are served, be endorsed on the back thereof, near the bottom, by and with the name of the plaintiff, if he be an inhabitant of this state, or in like manner by his agent or attorney, being an inhabitant of this state, and where the plaintiff is not an inhabitant of this state, then the writ shall be endorsed in the manner aforesaid by some responsible person, who is an inhabitant of this state; and the plaintiff's agent or attorney, who shall so endorse his name as aforesaid, shall be liable, in case of the plaintiff's living out of the state, or upon the neglect, inability, or avoidance of the plaintiff, and return of *non est inventus*, or that such execution, as may have issued against the plaintiff, is unsatisfied, to pay the defendant all such costs as he shall recover, and to pay all prison charges that may happen, where the plaintiff shall not support his action on *scire facias* to be brought against such endorser, within one year from the time of rendering judgment against the plaintiff, and not afterwards.

SECT. 3. *And be it further enacted,* That all writs of summons, scire facias, and writs of dower shall be served by reading the same to the defendant, or by leaving an attested copy thereof, with a copy of the service endorsed thereon, at the last and usual place of such defendant's abode; and a copy of the writ of dower shall also be left with the tenant or occupant of the land, whereof dower is demanded.

Service of writs.

And when the goods, or estate of any person shall be attached at the suit of another, in any civil action, a summons in form of law, as is prescribed, shall be delivered to the party whose goods or estate are attached, or left at his or her dwelling house, or last and usual place of abode, fifteen days before the day of the sitting of the court, to which such writ of attachment is returnable.

And ail such summonses shall set forth the sum in the note or bond declared on, with the endorsements thereon, with the dates thereof, the amount of the account annexed to the writ, or declared on, the quantity of land in ejectment, in covenant, what sum in damages is demanded, and for what; and in all cases shall briefly give the same information to the defendant, which the declaration gives more at large, and shall contain the substance thereof; and the officer serving, or leaving such summons, shall also endorse his name before he leaves it on the back thereof, otherwise the writ shall abate.

What shall be mentioned in the summons.

Officer shall endorse the summons.

And in case the defendant at the time of the service of any writ, be not an inhabitant, or resident in this state, and the writ be not served on him in person, but the defendant's goods or estate, within this state, are attached, then an attested copy of the writ, and a particular description of the lands or goods attached thereby shall be given to the defendant, or left at his last and usual place of abode; and the giving or leaving such copy shall be certified by the officer who made the attachment, or by some officer proper to execute the same, in the state where the defendant lives, or by some other person, and affidavit thereof made; or such copy may be left with the defendant's agent lawfully authorized to appear for him, or with the defendant's tenant, living on or near the land attached.

Service where the defendant is not an inhabitant.

SECT. 9. *And be it further enacted,* That no person imprisoned upon mesne process, shall be holden in prison upon, or by virtue of such process, after judgment shall be rendered on such process, on which such prisoner may have execution against the plaintiff; or above the space of thirty days next after judgment shall be rendered thereon, upon which the creditor may have execution; nor shall the prison-keeper discharge a person committed on mesne process where judgment shall be given on such mesne process for the plaintiff, on which execution may be taken out, until the expiration of thirty days from the time of rendering such judgment as aforesaid; that the creditor may, if he please,

Persons imprisoned on mesne process when to be discharged.

How long
goods, &c. at-
tached shall
be holden.

take his body in execution, unless the creditor shall by writing under his hand, order the prison-keeper sooner to discharge such prisoner. And all goods or estate attached to respond the judgment that may be given in any suit, shall not be released or discharged from such attachment, until the expiration of thirty days next after the rendering of such judgment, on which the plaintiff may have execution, or until judgment be rendered thereon for the defendant, upon which he may have execution against the plaintiff, to the intent that the plaintiff may levy his execution on the same goods or estate, unless such judgment shall be sooner otherwise satisfied.

Appeals.

SECT. 10. *And be it further enacted*, That in all cases where an appeal is claimed and allowed, the appellant shall produce, and give in to the court appealed unto, attested copies of the writ, judgment, and all the papers and evidence, used and filed in the cause, at the court or before the justice appealed from.—And each party, on the trial of an appeal, shall be allowed the benefit of any new and further evidence, and the appellant shall pay the entry, and jury fees at the court appealed to. And if any such appellant shall neglect to enter his appeal at the court appealed to, the justices of the last mentioned court, shall, on complaint made by the appellee, affirm the former judgment, in whole, or in part, in case the same was on demurrer, as to them may seem just and reasonable, with additional damages, not exceeding the lawful interest and costs, and in case the appellant shall not produce an attested copy of the case as aforesaid, or shall not, before the cause is committed to the jury, secure the payment of the jury fees, to the satisfaction of the court, or sheriff, he shall become nonsuit, and costs shall be taxed for the appellee.

Execution.

SECT. 11. *And be it further enacted*, That the several courts before mentioned, and justices of the peace respectively, be, and hereby are empowered to issue execution, in form by law prescribed, on every judgment by them respectively rendered, where no appeal is by law allowed, or where no appeal hath been, nor can be by law claimed or granted.

Provided always, That no execution shall in any case issue, until the expiration of twenty-four hours next after rendering judgment; nor then unless the right of appeal hath expired.

Review.

SECT. 12. *And be it further enacted*, That every action tried in the court of common pleas, which originated before a justice of the peace, and came up to said court by way of appeal, and every action tried in the superior court of judicature, where the cause originated at the court of common pleas, may be reviewed in the courts respectively, where final judgment was rendered. And the party, bringing such action of review, shall produce in court, attested

copies of the writ, judgment and all papers used and filed at the former trial. And either party may offer any new or further evidence; and when either party shall bring forward such action of review, the whole cause shall be tried in the same manner, as if no judgment had been given thereon. And the former judgment may be reversed in whole, or in part, or greater damages, or less, or no damages may be given, as the merits of the cause upon law and the evidence shall appear to require, in the same manner as if both parties had brought their several writs of review. And such actions shall be tried on the pleas made upon the former trial, upon record.

Provided, no action of review shall be brought after the expiration of three years, from the time of rendering the judgment to be reviewed. Limitation.

Saving unto any infant, feme coverts, person non compos mentis, person imprisoned, in captivity or out of the United States of America, the right of such review any time within three years, after such disability shall be removed. Saving.

And provided also, That no action of review shall be brought where by any particular statute, in any particular case, the liberty of review shall be expressly taken away.

SECT. 13. *And be it further enacted*, That execution shall not be stayed for or by reason of any process of review. Execution not to be stayed.

SECT. 14. *And be it further enacted*, That where any party shall be desirous of reviewing any action, and the other party shall not be an inhabitant of this state, the writ may be served upon the agent or attorney who endorsed the original writ, if such absent party was originally plaintiff, or in case such party was originally defendant, then on the attorney who appeared for said defendant, at the trial, where the judgment reviewed was rendered, or shall cause a copy of the review to be served on the adverse party, though out of the state, and affidavit thereof made. And in cases where personal notice is not given, the court may continue the cause one or more terms, in order that the party may have notice of the suit. And such writ of review shall be served by reading the same to the party, or to the agent or attorney as aforesaid, or by leaving an attested copy, as in other cases, whether there be one or more plaintiffs or defendants. Service of writ of review in certain cases.

SECT. 15. *And be it further enacted*, That no justice of the court of common pleas, general sessions of the peace, or superior court of judicature shall sit in the trial of any cause, on the appeal, which he hath before tried at the court appealed from,* nor shall he be admitted as an attorney to plead or defend any cause in which he hath acted as a judge; nor shall any man sit as a judge in any cause where he hath been concerned as a party or an attorney. Disqualification of judges.

* See act of Dec. 11, 1792.

Proceedings
in certain cases
on pleas
of abatement.

SECT. 16. *And be it further enacted,* That when on a plea in abatement, the judgment of the justice, or of the court of common pleas, as the case may be, shall be that the writ abate, and the same judgment be appealed from, and the court appealed to should reverse the said judgment, the said last mentioned court shall award the appellant his full costs at both courts, and issue execution therefor, and in case the same action was originally commenced before a justice of the peace, the plaintiff may cause the defendant to be served with the same process, and may proceed to trial on the merits before the justice, at a day by the said justice appointed; and any attachment made on the original writ, in case the process is renewed, at any time within three months from the judgment of reversal as aforesaid, shall be and remain good.

See act of
June 21, 1797.
Sec. 1.

And in case the same action were originally commenced at the court of common pleas, the said court of common pleas shall, at the next term thereof, the plaintiff entering the action anew, proceed without any further notice to the defendant, in the same manner as though no such appeal had been granted. And any attachment made or bail given on the same writ, shall in such case be liable and equally responsible, as though no such appeal had been allowed, or interlocutory judgment given.

Suits where
the defendant
hath not personal
notice in
certain cases
regulated.

SECT. 17. *And be it further enacted,* That when a suit shall be brought against a person, who is not an inhabitant or resident in this state, and no personal service be made on the defendant, or when the person against whom any suit is brought, shall be absent from this state at the time of commencing such suit, and shall not have returned at the time appointed for trial, the justices of the court, before whom such suit is, shall continue the action to the next term, and if the defendant doth not appear at the next term by himself or attorney, the court shall further continue the action to the next term, unless the plaintiff shall produce evidence sufficient to satisfy the court, that the defendant hath had notice of the suit or process a sufficient time before such term, to have appeared at said court; and in all such cases, where judgment is entered up by default, after two continuances as aforesaid, and no notice proved as aforesaid, the proof of which notice shall always be in writing, and filed in the cause, execution or writ of *seizin* shall not issue, until the plaintiff or demandant shall have given bond, with sufficient surety, in double the value of the estate, or sum recovered by such judgment, to respond the judgment that may be rendered on action of review, brought to reverse such original judgment, which action may be brought by the defendant at any time within one year next after the rendering such original judgment, and such plaintiff in review may have the benefit of all pleas and advantages that

he might have had, had he appeared and pleaded to the original suit, the default notwithstanding.

Provided always, That if the plaintiff in such original suit shall consent to have the action continued from term to term, six terms from the commencement of the suit, without any costs, after the second term, except for the court, or clerk's fees, he shall not be obliged to give any such bond, and the defendants shall not be entitled to any review.

SECT. 18. *And be it further enacted*, That no person, against whom any action of ejectment or trespass and ejectment shall be brought in this state, shall be held to special bail, but his or her own bail shall be deemed sufficient: and in any such action the writ shall not be abated because all the tenants are not sued, but those on whom the writ may be served shall answer for such part of the premises demanded, as he, she, or they claim, which the defendant, or defendants shall distinguish, and set forth in their plea, and disclaim the remainder. And if any shall disclaim the whole, unless the plaintiff shall prove such disclaimer's possession of all, or part of the premises demanded, such disclaimer shall recover costs against the plaintiff.

Ejectments
how prosecuted.

SECT. 19. *And be it further enacted*, That in case of the death of either party, appellant or appellee, before the sitting of the court appealed to, or where any action is or shall be pending in any court of common pleas, or superior court of judicature in this state, and either party die before final judgment, the action or suit shall not thereby be abated, but the executor or administrator of such deceased party, in case the cause of action doth by law survive,* shall have full power to prosecute or defend any such suit, action or appeal, to final judgment and execution; and the defendant or defendants are hereby obliged to answer thereto accordingly: and the court before whom such cause may be, is hereby empowered and directed to hear and determine the same, and to render judgment for, or against the executor or administrator, in the same manner as though the action had been originally brought by, or against such executor or administrator. And if the executor or administrator of a deceased party, having been duly served with a *scire facias* from the office of the clerk of the court where the suit is pending, fifteen days before the sitting of the court to which the same is returnable, shall neglect or refuse to become a party to the suit, the court may render judgment against the estate of the deceased party, in the same manner as if the executor or administrator had voluntarily made himself a party to the suit; and in all cases where an executor or administrator shall become a party to such suit, he shall on motion to the court be entitled to one continuance of course.

Writs and actions not to abate on account of the death of parties.

* See act of June 21, 1797 § 2.

Cause of action surviving the death of one plaintiff or defendant may be suggested on record, and action proceed.

SECT. 20. *And be it further enacted*, That if there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of action shall survive, to the surviving plaintiff or plaintiffs, against the surviving defendant or defendants, the writ or action shall not thereby be abated, but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

The action being prosecuted, attachment is to remain good.

And in all cases where any party shall die, and the cause of action doth survive, and is prosecuted by or against the executors or administrators, the attachment made on the original writ shall be and remain good, in the same manner as though such party had not died.

Vexatious actions on judgments, costs not to be allowed.

SECT. 21. *And be it further enacted*, That where any person shall commence an action on any judgment, obtained before any justice of the peace, or in any court of common pleas, or in any superior court of judicature in this state, upon which execution might at the time of commencing such action of debt have issued, if the court or justice before whom such action is brought, shall be of opinion that such action is brought to vex and harass the defendant and debtor, and with design to increase the costs, and that the plaintiff or creditor might have availed himself of an execution on the same judgment, in a manner equally advantageous for obtaining his demand of his debtor, as that of a new suit on the same judgment, then, and in every such case, the court or justice, before whom any such action may be brought, shall not render judgment for costs in any such suit, in favour of the plaintiff or creditor.

Witnesses to be summoned.

SECT. 22. *And be it further enacted*, That the clerks of the several judicial courts in this state, be, and they hereby are empowered respectively, to grant summons for witnesses in all causes pending in their respective courts; the summons to be directed to the person to be summoned, and to be made out in the form by law prescribed.

Justices to grant summons in all cases.

And every justice of the peace is hereby empowered to grant summons for witnesses in all causes, triable or pending in any court of law or equity in this state, and in all matters and causes before the general court, and in all causes pending or triable before himself, or any other justice of the peace, or in matters triable before referees or arbitrators, and to grant summons for witnesses to appear before him at a certain time and place, to give a deposition in any matter or cause where the same may be lawfully taken; such summons to be similar to that to be granted by the clerks of the several courts, and shall be directed to the person to be summoned as aforesaid.

SECT. 23. *And be it further enacted*, That if any person served with lawful process, or summons before any court, justice or referees, to testify or give a deposition in any case

where the same may be lawfully taken, and having tendered unto him or her, the fees by law established for the travel of a witness, from the place where such witness lives or resides, to and from the court or place where such witness is required to appear and testify, or give a deposition as aforesaid, and also the fees for one day's attendance, and at the end of every day the fees for the next day's attendance, if such attendance is required, if any such witness shall neglect to attend, and give his attendance as long as the same shall be necessary, for the purpose for which he was summoned, or refuse to testify, and give his deposition, if so required, and such witness having no reasonable excuse for such neglect, or refusal, every such witness so making default or refusal, shall be liable to the action of the aggrieved party, for all damages such party shall sustain by such default or refusal. And the court before whom any witness is required to appear and testify, and every justice of the peace before whom any witness is required to appear and testify, are hereby respectively empowered to bring any witness having been duly and lawfully summoned, neglecting or refusing to appear and testify, by attachment, and if upon examination it shall appear to such court, or such justice, that such witness had no reasonable excuse for such neglect or refusal, to fine him for such neglect or refusal; the fine imposed by any court of judicature not to exceed ten pounds, and the fine imposed by any justice of the peace not to exceed forty shillings, and the court and justice respectively may order him to pay the costs of attachment.

Penalty for
not attending.

Courts, &c.
may grant at-
tachments.

Passed February 9, 1791.

AN ACT in addition to, and in explanation of an act made and passed the ninth day of February, Anno Domini 1791, entitled, "An act regulating process and trials in civil causes."

Passed Dec.
11, 1792.

WHEREAS in and by the aforementioned act, it is among other things provided "that no justice of the court of common pleas, court of general sessions of the peace, or superior court of judicature, shall sit in the trial of any cause on the appeal, which he hath before tried at the court appealed from," which clause has been so construed as in many cases to operate injuriously;

Therefore for amendment and explanation thereof,

Be it enacted by the senate and house of representatives, in general court convened, That said clause shall not be intended or construed to disqualify, or prevent any justice of the superior court of judicature from sitting in the trial of any cause, where the appeal was from any judgment rendered on demurrer, or any other plea where either party re-

Justices not
disqualified
in certain ca-
ses.

serves liberty of waiving his plea, and pleading anew at the superior court, and does actually waive his first plea, and plead a new plea, said justice having sat in the trial of the cause at the inferior court of common pleas, or court of common pleas notwithstanding. *Passed December 11, 1792.*

Passed Dec.
13, 1796.

AN ACT in addition to an act, entitled, "An act regulating process and trials in civil causes."

WHEREAS in said act there is no mode provided, after the service of a writ, and before trial, whereby the defendant can oblige the plaintiff to settle his action, which tends greatly to increase the cost in civil causes.

For remedy whereof,

Tender to at-
torney.

Be it enacted by the senate and house of representatives, in general court convened, That at any time before the sitting of any court, to which any writ shall be returnable, or at any time before judgment shall be rendered thereon, any defendant who shall make application to the plaintiff's attorney, who brought the action, and actually tender to him the amount of the debt and the lawful costs that may have arisen, such tender shall be a bar to any further process, any usage or custom to the contrary notwithstanding.

Approved December 13, 1796.

Passed June
21, 1797.

AN ACT in addition to, and amendment of an act entitled, "an act regulating process and trials in civil cases."*

WHEREAS the proceedings upon pleas in abatement, as directed by the act, entitled, "an act regulating process and trials in civil cases*," have been found to be productive of great delay and vexation :

For remedy whereof,

Proceedings
on appeals in
pleas of a-
batement.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That upon trials on appeals in any pleas of abatement, if judgment be rendered that the plea is insufficient, and that the defendant answer over, the court appealed to shall order the defendant to plead to the merits in the same court, and proceed to trial without remanding the cause to the court appealed from, or any new entry or proceedings being there made ; any thing in said act to the contrary notwithstanding.*

SECT. 2. *And be it further enacted, That all actions of trespass for breaking and entering upon any close or real property, actions upon the case for trover and conversion, actions of debt, or on the case against any sheriff or his deputy for any illegal doings or misconduct in office, actions of ejectment or trespass, and ejectment, actions of trespass, for*

* Cases in the original by mistake for causes.

taking and carrying away goods and chattels, shall not abate by reason of the death of either party, but shall so far be considered as surviving, that they may be prosecuted to final judgment and execution, and reviewed in the same manner as actions, the cause whereof doth by law survive, may by said act, be prosecuted and reviewed, any law, usage* or custom to the contrary notwithstanding.

Actions not to abate by reason of death of either party.

Approved June 21, 1797.

* This is *use* in the original.

AN ACT in addition to an act, entitled, “*An act regulating process and trials in civil causes ;*” passed February 9th, 1791. Passed Nov. 5, 1813.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That when the real estate of any person or persons in this state shall be attached on mense process, by virtue of any writ or precept, the officer making such attachment shall, in addition to the duties now by law required of such officer, leave a true and attested copy of such writ or precept, together with a true and attested copy of his return thereon, with the town clerk of the town or place in which such real estate lies ; and the attachment of such real estate shall not be deemed and considered as made, until such attested copy and return shall have been left in manner aforesaid. And in case there be no town clerk in such town or place, then the officer making such attachment, shall leave, within ten days after such attachment shall have been made, a copy of such writ or precept, and return, as before required, with the clerk of the circuit court of common pleas in the county where such estate lies ; and in such case, the attachment shall not be considered as made until such attested copy shall have been left with such clerk in manner aforesaid : *provided, however,* That the return of the officer shall always be deemed and taken as sufficient evidence that such attested copy, as aforesaid, has been left with the town clerk, or clerk of the circuit court of common pleas as in this act required.

Real estate attached, copy to be left with town clerk

If no town clerk, with clerk of C. C. C. P.

SECT. 2. *And be it further enacted,* That it shall be the duty of such town clerk, or clerk of the circuit court of common pleas, to receive such copy and return, and to minute thereon the time when such copy is received, and to keep the same on file ; for which services he shall be entitled to receive of such officer the sum of seventeen cents : and the officer making such attachment, and leaving such copy, shall be entitled to tax, in addition to his other fees, the travel from the place where such attachment is made, to the office of such town clerk, or clerk of the circuit court of common pleas, and also for such copy, at the rate allowed by the laws now in force for copies of deeds.

Clerk to minute the time.

Officer's fee.

Approved November 5, 1813.

Passed June 9, 1808. *AN ACT providing a remedy against the representatives of deceased parties to joint obligations and contracts.*

BE it enacted by the senate and house of representatives, in general court convened, That the heirs, executors or administrators of any person jointly bound or holden with any other person or persons, by bond, covenant, promissory note or other contract, for the payment of any debt, or for the performance or forbearance of any act or other thing, and dying during the life time of the other, may be charged by virtue of such bond, covenant, promissory note or other contract, in the same way and manner as such heirs, executors and administrators might have been charged if such deceased person bound or holden as aforesaid, had been bound or holden severally, as well as jointly ; any law, usage or custom to the contrary notwithstanding.

Approved June 9, 1808.

Passed June 17, 1802. *AN ACT for providing for the preservation of the records and papers of publick notaries, and for giving them further powers in certain cases.*

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That when any publick notary practising, or who has practised in this state, shall remove out of the same, or resign his office, or from any cause cease practising therein, it shall be his duty to deposit his notarial records and papers filed in his office, in the office of the secretary of the state for the time being, where they shall thereafter be safely kept. And in case of the death of any notary, it shall be the duty of his heirs, executors, or administrators, so to deposit his records and files : and on failure herein by any of the persons aforesaid, the secretary of the state shall have power to demand and receive such records and papers, in whoseever possession the same may be : and if any person, possessed of such official records and papers, shall refuse to deliver them when so demanded, he shall forfeit and pay the sum of one thousand dollars, to be recovered in a plea of debt, in any court proper to try the same ; one moiety thereof to the use of the person who shall sue for the same, the other moiety to the use of the county of which such notary was last an inhabitant. And all persons shall have free access to such records and files, when lodged in the office of the secretary of the state, who is hereby authorized and required to grant and certify copies of them, under the seal of the state, which shall have the like validity and effect, as they would have, had they been certified under the seal of the notary himself.

SECT. 2. *And be it further enacted,* That the publick notaries, who are, and from time to time shall be, commis-

sioned and sworn, shall have in this state a concurrent power and authority with the justices of the peace, to take and certify the taking of depositions in all cases wherein the law allows the taking of affidavits out of court; and like power and authority to take acknowledgments of deeds made to pass real estate; and their certificates of such acts, shall have like validity, and the same legal effect, to all intents, as certificates of such official acts made by justices of the peace now have; any law, usage, or custom, to the contrary notwithstanding.

Approved June 17, 1802.

AN ACT for recording proceedings before justices of the peace, and for preserving such records. Passed June 10, 1791.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That each justice of the peace in this state, shall keep a fair record, in a book or books of records, to be by him kept for that purpose, of all proceedings, whether civil or criminal, had before him as a justice of the peace, and of all oaths by him administered to town or publick officers. [Sept. 15, 1792.]
Justices to keep records

SECT. 2. *And be it further enacted,* That when any justice of the peace shall die, his executor, or administrator, or other person into whose hands and possession the records and files of such deceased justice shall come, shall as soon as may be, lodge the book of records and files kept by such justice of all business, civil or criminal, transacted by or before such deceased justice in his said office, with the clerk of the court of common pleas in the county in which such deceased person was a justice of the peace. And the said records, files and papers shall be there kept by the said clerk. And if any executor, administrator or other person, having received such records and papers into his custody, shall not within six months from the time of his having so received them, lodge the same with the said clerk, he shall for every months neglect, after the expiration of the said term of six months, forfeit, and pay to any person who will sue for the same, the sum of twenty shillings. to be lodged with the clerk of the common pleas after the justice's death.

Penalty for neglect.

SECT. 3. *And be it further enacted,* That when any justice of the peace shall remove out of his county, he shall lodge his records and files as before mentioned, with the clerk as before mentioned, on penalty of forfeiting for every months neglect of lodging the same, after his removal from his county, the sum of twenty shillings, to any person who will sue for the same. Justice to leave his records, &c. on removal.

Penalty for neglect.

SECT. 4. *And be it further enacted,* That when the commission of any justice of the peace shall be renewed, and he shall be re-invested in said office, he may issue executions on any judgments regularly and duly obtained or re- Justice may issue executions after the renewal of his commission.

covered before him, during any former appointment and commission, in the same manner (but not otherwise) as though his former commission had not expired.

Justices and
clerks of com-
mon pleas to
certify copies

SECT. 5. *And be it further enacted*, That every person, who hath sustained the office of justice of the peace, shall and may on application to him, certify any proceedings had before him as a justice of the peace, and the clerk of the said court of common pleas, shall give attested copies of records and papers of deceased and removed justices, that may be lodged in his office. And they respectively shall be deemed for the purposes aforesaid, proper certifying officers.

Passed June 10, 1791.

Passed Feb. 8,
1791.

[September
15, 1792.]

AN ACT establishing Forms of Oaths.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the forms of oaths in this act prescribed, be, and hereby are established to be used and administered unto the officers and persons herein after mentioned, namely,

GRAND JURORS OATH.

Grand jurors.

You as grand jurors for the body of this county do solemnly swear, that you will diligently require, and a true presentment make of all such matters and things as shall be given you in charge; the state's counsel, your fellows, and your own you shall keep secret; you shall present no man for envy, hatred or malice; neither shall you leave any unrepresented for love, fear, favour, affection, or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding.

So help you GOD.

PETIT JURORS OATH IN CRIMINAL CAUSES.

Petit jurors
in crim. caus-
es.

You solemnly swear that you will well and truly try, and true deliverance make, between the State of New-Hampshire, and the prisoner at the bar, whom you shall have in charge, according to law, and the evidence given you.

So help you GOD.

PETIT JURORS OATH IN CIVIL CAUSES.

in civil caus-
es.

You swear that in all causes betwixt party and party, that shall be committed unto you, you will give a true verdict, according to law and the evidence given you.

So help you GOD.

FORM OF AN OATH TO BE ADMINISTERED TO ANY TOWN OFFICER.

Town offi-
cers.

You do solemnly swear, that you will faithfully and impartially discharge and perform all the duties incumbent on you as a _____ according to the best of your abili-

ties, agreeably to the rules and regulations of the constitution, and laws of the state of New-Hampshire.

So help you GOD.

SECT. 2. *And be it further enacted,* That if any person, to whom it may be necessary to administer an oath, shall be of the denomination of the people called Quakers, or shall be scrupulous of swearing, and shall decline taking the oath in the ordinary way, the person whose duty it may be to administer any oath to any such person, shall omit the word "*swear*," using instead thereof the word "*affirm*," and shall omit the words, "*So help you God*," using instead thereof the words,—"*This you do under the pains and penalties of perjury*." Persons scrupulous of swearing may affirm

SECT. 3. *And be it further enacted,* That no other ceremony shall be deemed necessary in swearing, than holding up the right hand. Ceremony in swearing.

SECT. 4. *And be it further enacted,* That the persons in giving testimony, who affirm, shall, in case of wilful falsehood, on conviction, undergo the same punishment as is prescribed by law in the case of wilful perjury. False affirmation punished as perjury

Passed February 8, 1791.

AN ACT for the taking of Affidavits out of Court.

Passed Feb. 9, 1791.
[Sept. 15, 1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That in the trial of all civil causes, when witnesses in any such cause are bound at sea, are old and infirm, are sick and unable to appear at court, or live more than ten miles from the place of trial, their depositions may be taken by a justice of the peace.

Depositions may be taken by a justice.

Provided, That if the adverse party live within this state, or if not living within this state, but shall live within twenty miles of the place of caption, or within the like distance from the party proposing to take any such affidavits, a reasonable time previous to the taking such deposition, a notification in writing, signed by the justice, shall be delivered to such adverse party, or left at his usual place of abode; and in such notification shall be expressed the day, hour and place of taking the same.

Adverse party to be notified.

See page 114, this clause repealed.

And every such witness shall be sworn to testify the whole truth, and nothing but the truth; and the justice shall attest the same, with the time of the caption, and that the adverse party was present, or not present; notified or not notified; and if present did, or did not object, as the case may be; and shall also certify the cause of taking such deposition, and shall seal up the said deposition, and it shall be so delivered into court; or otherwise the justice shall deliver the same with his own hand to the court.

Caption.

No person interested or attorney to write the testimony.

SECT. 2. *And be it further enacted*, That no person, interested in any suit or cause, shall write the testimony of any such witness ; nor shall any attorney write the testimony of any witness in his client's cause.

Affidavits in perpetuum.

SECT. 3. *And be it further enacted*, That all affidavits relating to the possession of any houses, lands or tenements, or relating to any other matter, in *perpetuum rei memoriam*, or in perpetual remembrance of such transaction or thing, shall be made and taken before some court of record, or before any two justices of the peace, one of whom shall be of the quorum.—And such affidavit being recorded in the registry of deeds, (which in case such deposition relate to any real estate, shall always be the registry of deeds in the county where such real estate lies) a copy of such record, (the original being lost) may be read in evidence in any court, as occasion may require in such cases, where the original might lawfully be admitted.

Passed February 9, 1791.

Passed June 18, 1807.

AN ACT in addition to, and amendment of an act, entitled, "An act for the taking of affidavits out of court," passed February 9, 1791.

Page 113.

WHEREAS in and by said act it is required, that the party proposing to take any such affidavits, shall cause a notification in writing signed by the justice before whom such affidavit is to be taken, to be delivered to the adverse party, &c. which is often attended with great expense and inconvenience,

For remedy whereof—

Any justice of the peace in this state empowered to sign notifications.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened*, That the party proposing to take any such deposition, a reasonable time previous to the taking of such deposition, shall cause a notification in writing, signed by any justice of the peace in this state, to be delivered to such adverse party, or left at his usual place of abode ; and in such notification shall be expressed the name of the justice of the peace, before whom such deposition is to be taken, the day, hour and place of taking the same.

Costs in certain cases.

SECT. 2. *And be it further enacted*, That if the party proposing to take any such deposition, shall neglect or refuse to take the same, after notice as aforesaid, the adverse party, in case of actual travel by himself or attorney to the place, and at the time mentioned in such notification, shall be entitled to have and recover, in an action or plea of the case, of the party proposing to take such deposition, double the fees which are allowed by law to witnesses, for their travel and attendance at court, in the trial of civil causes ; unless seasonably notified in writing, signed by

the party proposing to take such deposition, or his attorney, that such deposition will not be taken.

SECT. 3. *And be it further enacted*, That such part and so much of the act, entitled an act for the taking of affidavits out of court, passed February 9, 1791, requiring a notification in writing, signed by the justice before whom such affidavits are proposed to be taken, shall be, and is hereby repealed. Repealing clause.

Approved June 18, 1807.

AN ACT relating to Attornies.

Passed Feb
17, 1791.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the plaintiff or defendant in any cause, prosecution or suit, being a citizen of this state, may appear, plead, pursue or defend, in his proper person, or by such other citizen of this state, being of good and reputable character and behaviour, as he may engage and employ, whether the person so employed be admitted as an attorney at law, or not.

[Sept 15.
1792.]

SECT. 2. *And be it further enacted*, That all attornies commonly practising in any of the courts of justice within this state, shall be under oath, which oath shall be administered to them by the clerk, in open court, before the justices of the same, at the time of their being admitted to such practice, in the tenor following—That is to say,

Attornies to
be sworn

You solemnly swear, that you will do no falsehood, nor consent that any be done in the court, and if you know of any, that you will give knowledge thereof to the justices of the court, or some of them, that it may be reformed; that you will not wittingly or willingly promote, sue or procure to be sued, any false or unlawful suit, nor consent to the same; you shall delay no man for lucre or malice, but shall act in the office of an attorney within the court according to the best of your learning and discretion, and with all good fidelity as well to the court as your client.

Oath

So help you God.

And but one attorney to be taxed in any bill of cost, any law, usage or custom to the contrary notwithstanding. But one attorney to be taxed.

Passed February 17, 1791.

AN ACT for the appointment of Solicitors General.

Passed June
19, 1789.

WHEREAS it sometimes happens, that the attorney general cannot attend the courts of general sessions of the peace in the several counties; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the president, with advice of council, be empowered to appoint some person in

each county to act as a solicitor in behalf of the state, who, in the absence of the attorney general, shall have all the powers and authority of attorney general, and who shall be entitled to all the fees and perquisites thereunto belonging.

Passed June 19, 1789.

Passed Feb.
15, 1791.

AN ACT regulating Bail in Civil causes.

[Sept. 15,
1792.]

Bail in civil
causes liable
to satisfy the
judgment.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That where bail is given upon mesne process, in any civil action, for the appearance of the party to answer the suit, and to abide the order or judgment of the court that shall be given thereon, every such surety or sureties shall be obliged to satisfy the judgment obtained against the principal, in case of the principal's avoidance, and return of "*non est inventus*" upon the execution. And the party for whom the judgment was given, may have a writ of *scire facias* from the court where the original judgment was rendered, against such surety or sureties; and in case no sufficient cause is shewn to the contrary, shall have judgment thereon against such surety or sureties, for the damages and costs recovered against the principal, with additional costs of suit, and execution shall be granted therefor accordingly.

Bail to be dis-
charged upon
delivering up
the principal
before judg-
ment.

Provided always, That the surety or sureties in any suit, at the time of entering up final judgment against the principal, or at any time before such final judgment, may bring the principal into court, and move to be discharged, upon which he shall be discharged; and the court shall order the keeper of the prison to receive him into custody, that so his body may be taken in execution; and his body shall be holden the same time, and in the same manner, as though he had been committed on such mesne process for want of bail.

Principal to
be committed

And provided further, That if the said surety or sureties shall at any time before *scire facias* brought, or before final judgment rendered against such surety or sureties, bring the principal into court, and move the court, to be discharged from such suit, the said court shall order the said surety to be discharged, such surety paying down in money to the creditor the costs that have already accrued in such suit against the surety. And the said court shall also order the said principal debtor to be committed, that the creditor may take him in execution; and he shall remain in custody of the said prison-keeper, unless sooner discharged by the creditor, thirty days. And if the creditor shall not within the said space of thirty days take the said debtor in execution, the prison-keeper shall discharge him upon his paying prison charges.

Provided always, That in all cases where the surety shall cause the principal to be committed, after final judg-

ment rendered against the principal, and before *scire facias* brought against the surety, such surety shall within fifteen days after such commitment, notify the creditor in writing, or notify his attorney who appeared for him in the suit, that the principal stands so committed, in order that the body may be taken in execution, and that such plaintiff or creditor, may not be at the expense of suing out a *scire facias* against the surety.

Surety to notify creditor.

SECT. 2. *And be it further enacted*, That no *scire facias* shall be served upon the bail, unless it be done within one year next after entering up final judgment against the principal.

Scire facias against bail to be served within one year.

SECT. 3. *And be it further enacted*, That the bail may have his, or their remedy, by action on the case, against his or their principal, for all damages sustained by their becoming his sureties.

Bail may have remedy against principal.

Passed February 15, 1791.

AN ACT in addition to an act regulating bail in civil causes.

Passed Dec 15, 1797

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That where bail is given upon *mesne process*, in any civil action commenced before any justice of the peace, for the appearance of the party to answer the suit, and to abide the order or judgment of court, that shall be given thereon, such surety or sureties may at any time before the rendering judgment against the principal commit the principal to gaol, and upon such surety or sureties producing to the said justice a certificate from the prison keeper of such commitment, he or they shall be discharged from said suit—and the principal shall be holden the same time, and in the same manner as though he had been committed on such *mesne process* for want of bail.

Bail may be discharged.

SECT. 2. *And be it further enacted*, That if said surety or sureties after *scire facias* brought, and before final judgment be rendered against him or them, commit the principal to gaol, and bring to the said justice a certificate of such commitment, and move to be discharged from such suit, the said justice shall order said surety or sureties to be discharged, such surety or sureties paying to the creditor the costs that have accrued in such action upon the *scire facias*, and the said prison-keeper shall detain the principal thirty days, unless he shall sooner be discharged by the creditors.

paying cost of scire facias

SECT. 3. *And be it further enacted*, That if the surety or sureties in any suit before mentioned, at the time of entering up final judgment against the principal, or at any time before, or at the time of entering up final judgment against the surety or sureties on the *scire facias*, or at any time before, shall bring the principal into court, and offer to

surrender him to the justice, such surety or sureties shall not thereby be discharged, any law, usage or custom to the contrary notwithstanding.

When scire
facias must
be brought to
C. C. P.

SECT. 4. *And be it further enacted*, That if the damages and costs recovered in any action before any justice of the peace wherein bail was given, amount to more than *thirteen dollars and thirty-three cents*, the plaintiff is hereby empowered in case of the principal's avoidance, and return of *non est inventus* upon the execution, to bring a *scire facias* against the surety or sureties at any time within one year, next after entering up final judgment against the principal, returnable to the court of common pleas in the same county, any law, usage or custom to the contrary notwithstanding.

SECT. 5. *Provided, nevertheless, and be it further enacted*, That if the surety or sureties shall at any time after entering up judgment against the principal; deliver up such principal to the officer having the execution, so that his body may be taken thereby, such surety or sureties shall thereby be discharged.

Approved December 15, 1797.

Passed Feb.
8, 1791.
[Sept. 15,
1792.]

AN ACT regulating the choice and service of Grand Jurors.

Venires.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That forty days at least, before the sitting of the superior court of judicature in each county in this state, at the stated terms by law appointed for holding the same, the clerk of said court shall issue a precept to the clerk of each town, within the county in which such court is to be holden, or to the clerks of so many of the said towns, as the said court shall order, requiring the clerks to whom the same shall be directed, to warn a meeting of the inhabitants of his town qualified to vote for representatives, to choose one or more persons, as in said precept shall be ordered (each of whom to have an estate of fifty pounds,) to serve as grand jurors at said court.

Town clerk
to call a meet-
ing.

Grand jurors
to be chosen.

And the said town clerk shall, seven days at least before the day of holding the meeting for choosing such grand jurors, post up at the usual place of notifying meetings in such town, a notification for the inhabitants to assemble, for the purpose of choosing grand jurors, agreeably to the precept to him directed. And the said inhabitants, when assembled, shall proceed to choose a moderator to govern said meeting, and shall thereupon elect such number of grand jurors, as may be required of them;* and the persons chosen, shall, four days at

* The mode of appointing Grand Jurors altered, see act of 20th Dec 1808, page 121.

least before the sitting of said court, be notified of their appointment, and of the time when, and place where they are ordered to attend, which shall be mentioned in such precept, or, a notification shall be left the like number of days at such juror's place of abode; and the town clerk shall make return of said precept to the clerk of the court whence it issued, on the first day of the sitting thereof, at such hour as in said precept shall be ordered, with his doings thereon. And when any person chosen as aforesaid to serve as grand juror, shall make sufficient excuse, in the judgment of those assembled at any such town meeting, they may excuse such person and proceed to choose another.

And the persons chosen, returned and attending as grand jurors, shall be empannelled and sworn as the grand inquest of the county for that term.

SECT. 2. *And be it further enacted*, That the clerk of the court of general sessions of the peace in each county in this state, shall once in every year, at such term as said court shall order, forty days previous to the sitting of the court, issue a precept to the clerk of each town in said county, or to the clerks of so many of said towns as the said court shall order, requiring the said town clerk to warn a meeting of the inhabitants of his town, qualified as aforesaid, for the purpose of choosing such number of grand jurors, as in the same precept shall be ordered, who shall have the same qualifications as before mentioned for jurors for the superior court, and such meeting shall be notified, governed and holden in the same way and manner as is before mentioned, with respect to jurors for the superior court; and the person chosen at any such meeting to serve as grand juror, giving sufficient reason therefor, may be excused from serving, by the qualified voters present, and another be chosen in his room. And the town clerk shall notify the person chosen as grand juror in the same manner and season, as grand jurors for the superior court are to be notified, and shall make return of the precept to him directed, with his doings thereon, on the first day of the sitting of said court, at such hour as in said precept shall be ordered. And the persons so chosen, returned and attending as grand jurors, shall be empannelled and sworn as the grand inquest for said county, and shall continue in the said office for the term of one year, from the term at which they are empannelled, and until others be chosen and sworn in their stead, and shall attend the said court at every session thereof by law established, during the term aforesaid.* And if any town clerk, having received such precept from the clerk of either of the courts aforesaid, shall neglect to warn a meeting of

Notified

and returned

Clerks of sessions to issue venire

Town meeting called and grand jurors chosen

Notified

and returned

Penalty on town clerks for neglect.

* The preceding part of this section repealed, see act of Feb. 21, 1794. and act of Dec. 6, 1800.

the inhabitants of his town qualified as aforesaid, or shall neglect to notify and summon the persons chosen grand jurors at any legal meeting, or shall not make due return of the precept to him directed with his doings thereon, he shall pay such fine as the court, by whose order the said precept issued in their discretion may impose, not exceeding the sum of five pounds.

Penalty on towns for neglect.

And if any town, duly notified as before mentioned, in either of the cases aforesaid, to choose grand jurors for the superior court of judicature, or the court of general sessions of the peace, shall neglect to choose as many men duly qualified as aforesaid, and able to attend the duty as are directed in the precept laid before such town by the town clerk as aforesaid; such town shall be amerced in such sum, as the court, by whose order such precept issued, shall order, not exceeding the sum of six pounds.

Penalty on jurors for neglect.

And if any person, chosen and notified to attend as aforesaid, shall unnecessarily, and without sufficient excuse, neglect to attend agreeably to the notice given him, he shall be fined by the court, by whose order the precept issued, in a sum not exceeding three pounds. The said fines to be paid to the county treasurer, and to be for the use of the county.

Sheriff by order of court to return tales.

And if a sufficient number of grand jurors do not appear, the respective courts may order the sheriff to return grand jurors, of such persons present, as occasion shall require, and the said court shall judge necessary, provided the number wanting do not exceed five; and the said sheriff is hereby ordered and directed to do the same accordingly.

Venires to be delivered to the town clerk 25 days before court.

And the clerks of the respective courts before mentioned shall cause the precepts for the appointment of grand jurors to be delivered to the town clerks to whom they are directed at least twenty-five days before the sitting of the court to which they are returnable, or to be delivered to the sheriff of the county in which such grand jurors are to assemble, at least forty days before the sitting of the court to which such precepts are returnable. And the said sheriff shall cause all such precepts as are delivered to him seasonably, to be delivered to the town clerks to whom they are directed, at least twenty-five days before the day of the sitting of the court to which they are returnable. And if either of the said clerks or sheriffs shall make default herein, they shall severally be amerced by the respective courts where such default shall be made, for each and every offence or neglect, a sum not exceeding three pounds. And the respective town clerks shall be paid by the several towns to which they belong, a reasonable sum for the performance of the duties enjoined on them by this act.

Penalty for neglect.

Town clerks to be paid.

Passed February 3, 1791.

*AN ACT relative to Grand Jurors.*Passed Dec.
6, 1800.

WHEREAS the travel and attendance of grand jurors at the courts of common pleas are unnecessary :

Be it enacted by the senate and house of representatives, in general court convened, That the paragraphs in the several laws relative to the appointment, travel and attendance, and duty of grand jurors at the several and respective courts of common pleas in this state, be, and hereby are repealed.

Approved December 6, 1800.

AN ACT directing the appointment and choice of Grand Jurors. Passed Dec
20, 1808.

BE it enacted by the senate and house of representatives, in general court convened, That in future the number of grand jurors required from any town, parish or place within this state, to serve at any term of the superior court of judicature, shall be drawn from the box containing the names of those persons suitable to serve as petit jurors at the superior court of judicature in the same manner as petit jurors are by law drawn and appointed ; any law, usage or custom to the contrary notwithstanding : provided, That no person shall be obliged to serve as a grand or petit juror, although his name may be drawn as aforesaid, oftener than once in three years.

Approved December 20, 1808.

AN ACT directing and regulating the appointment and choice of Petit Jurors. Passed June
17, 1785.

WHEREAS it is of the utmost importance, that impartial jurors should be appointed to serve in the several courts of justice in this state :

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That the selectmen of each town, and of each parish (having the privilege and power of towns) within this state, shall take a list of the names of all persons living within their respective limits, qualified in the opinion of the selectmen to serve as petit jurors ; each of whom to have an estate of freehold of forty shillings per annum, or other estate to the value of fifty pounds ; and shall choose out of such list, one third part of the number of the names contained therein, of such persons as they shall judge most suitable to serve as jurors at the superior court, and shall write their names on separate pieces of paper, and put them into a box, to be by said selectmen provided for that purpose : and the remainder of the names in such list, to be written as aforesaid, and put into another box,*

Selectmen of each town to make lists of persons for the petit jury.

Repealed by act of Dec. 10, 1800.

to be so provided; and the persons whose names shall be so put in the last mentioned box, shall serve on the petit jury, at the inferior court of common pleas, and court of general sessions of the peace; which boxes shall be delivered to the town or parish clerk, to be by him kept under lock.

The *venire* how to be issued.

Thirty days at least, before the sitting of the court.

Method of appointing them.

Who may be excused.

The names of those who serve to be entered on the papers, &c.

None to serve oftener than once in three years.

Lists to be regulated once a year.

SECT. 2. *And be it further enacted*, That the *venire facias* for said jurors, shall be issued by the clerks of the respective courts aforesaid, thirty days, at least before the day of the sitting of the court to which it is returnable; and shall be directed to the clerk of the town or parish, requiring him to cause so many persons to be appointed and returned, of those duly qualified, within the town or parish of which he is clerk, as shall be mentioned in the *venire* (and as shall be ordered by the justices of said courts, respectively) who shall thereupon, immediately notify a town or parish meeting, according to the customary method of calling such meetings, within such town or parish respectively, to be held, at least, six days before the sitting of the court to which the *venire* is returnable. And that such appointment of jurymen may be fairly and impartially transacted, the town or parish clerk, or in case of his absence or sickness, one or more of the selectmen shall carry into the meeting the proper box locked, which shall be unlocked there, and the town or parish clerk, or a selectman attending as aforesaid, shall draw out of the said box, before all the persons assembled, so many of the papers in said box, as there are jurors required by the *venire*; and the persons whose names shall be so drawn out of the box, shall serve accordingly: Excepting any, whose names shall be drawn out, shall be then sick, or any otherways unable to serve, in the judgment of those upon that occasion assembled; in which case their names shall be returned into the box and others drawn in their stead. And that the same persons may not serve too often, the clerk or selectmen, who shall draw out the names as aforesaid, of such as shall be returned to serve as jurors, shall enter on the back of the paper on which such names shall be written the time when such draught shall be made, and return the same into the box again. And no person shall be obliged to serve as a juror (although his name shall be drawn as aforesaid) oftener than once in three years. And for the more orderly proceeding at such meeting, the qualified voters in town affairs, who shall be present, may and shall first proceed to choose a suitable person, then present, to be moderator of the meeting, and to govern and regulate the business of such meeting. And until a moderator shall be so chosen, the town clerk, or in case of his absence as aforesaid, a selectman shall govern the said meeting. And the selectmen aforesaid, shall, once every year regulate the said lists, by adding thereto any new names of persons becoming qualified

since the last regulation; and by filling up the vacancies made by death, or other disability, in the said boxes; and also by transferring the names from one box to the other as there may be occasion, by the addition of young men's names to the list or otherways.

And when any person shall be appointed to serve as a juror, in manner aforesaid, the town or parish clerk shall send a notification thereof in writing, by the hand of a constable to the juror, which shall be delivered to him, or left at his dwelling house, at least four days before the day of the court's sitting, at which he is to serve; which notification shall set forth the time when such juror's name was drawn, the name of the court at which he is to serve, and the day when he must appear there. And the said town and parish clerk respectively shall certify to the clerk of the court, who issued the *venire*, on the back thereof, the names of the persons so appointed to serve as jurors, and that they have been duly notified as aforesaid, at least the day before the sitting of the court to which the *venire* is returnable. And if any person who shall be so appointed and notified to serve as a juror, shall neglect to attend accordingly, he shall be liable and subject to the fine and penalty of thirty shillings.

Town clerk to send notice to the persons appointed.

The names of the jurors to be certified on the *venire*.

Penalty for not attending.

SECT. 3. *And be it further enacted*, That the justices of the respective courts aforesaid, are hereby directed upon motion from either party in the cause to be tried, to put a juror to answer upon oath (whether returned as aforesaid, or as a talesman) whether he doth expect to gain or lose by the issue of the cause then depending? Whether he is any ways related to either party? And whether he hath been of counsel to either party, or directly or indirectly given his opinion, or is sensible of any prejudice in the cause? And if it shall appear to the court, that such juror does not stand indifferent in said cause, he shall be set aside from the trial of that cause and another appointed in his stead. And the sheriff and coroner respectively, are hereby authorized to fill up a jury, by returning talesmen as the case may require.

The court may put jurors to answer upon oath respecting their impartiality, &c

SECT. 4. *And be it further enacted*, That upon any emergency, a sufficient number of jurors may be appointed and summoned, while such courts respectively are sitting. And the *venire* shall be issued to the town or parish clerk immediately, and the names drawn according as this act directs. And in such cases, the town and parish clerk respectively, shall order the constable or constables of the town or parish respectively, to warn a meeting forthwith, and the number of jurors required in the *venire*, shall be immediately drawn and appointed as aforesaid, and notified to attend the service of the court from whence the *venire* issued, which shall be returned as soon as may be. And the jurors so appointed and notified, shall immediately attend ac-

Jurors may be appointed during the sitting of the court.

Penalty for non attendance

cordingly, on the pains and penalties aforesaid, in case of neglect so to do. And the town and parish clerks aforesaid, shall be paid for the services enjoined them by this act, what is reasonable, by the towns and parishes in which they serve yearly. *Passed June 17, 1785.*

Passed Dec. 10, 1800. *AN ACT making compensation to Grand and Petit Jurors.*

FEES SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That each petit juror who shall attend the superior court of judicature, and each petit juror who shall attend the court of common pleas, in the several counties in this state be allowed one dollar per day for each day's attendance at such courts, to be paid together with his travelling fees as by law allowed, out of the treasury of the county where he may attend, and such fees for attendance shall be in lieu of the fees received for trials of causes.*

FEES TO BE PAID TO CLERKS, &c. SECT. 2. *Be it further enacted, That the fees now allowed by law to petit jurors for trials of causes, shall be paid to the clerks of the respective courts, who shall pay over the same to the treasurer of the county where such trials are had.*

COMPENSATION TO GRAND JURORS. SECT. 3. *And be it further enacted, That the same compensation shall be allowed to grand jurors, as by this act is allowed to petit jurors for travel and attendance.*

SELECTMEN TO TAKE A LIST, &c. SECT. 4. *And be it further enacted, That the selectmen of each town and parish (having the privilege and power of towns) within this state, shall take a list of the names of all persons living within their respective limits, qualified in the opinion of the selectmen to serve as petit jurors; each of whom to have an estate of freehold, of seven dollars per annum, or other estate to the value of two hundred dollars, and shall choose out of such list one half of the number of the names contained therein, selecting such persons as such selectmen shall judge to be most suitable to serve as petit jurors, and shall write their names on separate pieces of paper, and said selectmen shall choose out of said last number one half thereof, and put them into a box provided for that purpose, and the persons whose names shall be so put into the said box, shall serve as petit jurors at the superior court, and the said selectmen shall put the remaining number of the names of the half first mentioned into another box to be so provided, and the persons whose names shall be so put into the box last mentioned, shall serve as petit jurors at the court of common pleas.*

REPEAL. SECT. 5. *And be it further enacted, That the first section of an act, entitled, an "act directing and regulating the appointment and choice of petit jurors, made and passed the*

seventeenth day of June Anno Domini 1785, be, and the same is hereby repealed.

SECT. 6. *And be it further enacted*, That each talesman empannelled at either of the courts aforesaid, shall be entitled to receive *fifty cents* for the trial of each action for which he may be empannelled, to be paid out of the treasury of the county where such trial may be had. Talesmen fees.

SECT. 7. *And be it further enacted*, That for the entry of every action which shall hereafter be made at the superior court of judicature, and at the several courts of common pleas within this state, there shall be paid to the several clerks thereof, by the person so entering said action, the sum of *twenty-five cents*, in addition to the present fees for entering actions at the courts aforesaid as by law established, which additional sum of *twenty-five cents* so received, shall be paid by the several clerks aforesaid, into the county treasury where such entry shall be made, for the use of said county, any law to the contrary notwithstanding; *Provided, nevertheless*, That this act shall not be in force until the first day of July next. Fees for entry of actions
Repealed by act of June 19, 1806.

Approved December 10, 1800.

AN ACT to repeal the last section of an act, entitled, "an act making compensation to Grand and Petit Jurors." Passed June 19, 1806.

BE it enacted by the senate and house of representatives, in general court convened, That from and after passing this act, the last section of said act, making an addition of the sum of twenty-five cents, to be paid for the entry of every action made at the superior court of judicature, and the several courts of common pleas within this state, to be paid by the several clerks of said courts into the county treasury for the use of said county, be, and the same is hereby repealed.

Approved June 19, 1806.

AN ACT in amendment of the laws now in force, directing and regulating the appointment and choice of Grand and Petit Jurors. Passed Nov. 5, 1813.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, it shall be the duty of the selectmen of each town, parish and place, (having the privileges and power of towns) within this state, to make out a list of the names of all persons living within their respective limits, qualified, in the opinion of the selectmen, to serve as grand and petit jurors; each of whom shall have an estate of freehold of seven dollars per annum, or other estate to the value of two hundred dollars; and shall choose out of such list one fourth part of the number of names contained therein, of such per- Selectmen to make out lists.
One fourth to be selected.

Names to be
kept in a box.

sons as they shall deem most suitable, to serve as grand and petit jurors in the supreme judicial court, and petit jurors in the circuit court of common pleas; and shall write their names on separate pieces of paper, and put them into one box, to be by said selectmen provided for that purpose; which box shall be delivered to the town or parish clerk, to be by him kept under lock.

Manner of
choosing.

SECT. 2. *And be it further enacted*, That the issuing of the venire facias, and the method of appointing the grand and petit jurors to attend the supreme judicial court, and the petit jurors to attend the circuit court of common pleas, (all of whom to be drawn out of the same box provided as aforesaid) shall be in the same manner, varying the circumstance of all the juror's names being drawn out of one box only, as is now provided by law for issuing the venire facias, and appointing the grand and petit jurors to attend the supreme judicial court, and appointing the petit jurors to attend the circuit court of common pleas.

Fourth section of former act repealed.

SECT. 3. *And be it further enacted*, That the fourth section of the act, entitled, "an act making compensation to grand and petit jurors," passed December 10th, 1800, be, and the same is hereby repealed: *Provided, however*, that this act shall not take place, or have effect, until the first day of February, one thousand eight hundred and fourteen.

Approved November 5, 1813.

AN ACT regulating Fees.

Passed Dec.
16, 1796.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the fees of the several officers and other persons herein after mentioned, shall be as follows, to wit:

Fees of the justices of the peace in civil causes.

in civil causes

For every writ of summons or writ of attachment with summons seventeen cents; for every writ of subpoena ten cents; for the entry of every action or complaint including filing the papers, entering judgment and appearance and recording sixty cents; for every execution twenty-five cents; for granting an appeal seventeen cents; for entering satisfaction of a judgment on record ten cents; for taking affidavits out of court thirty-four cents for swearing each witness and making the caption, and seventeen cents for writing each page of the deposition, and for the justices' travel to swear witnesses at the rate of thirty-four cents for every ten miles actual travel; the justices' fees for travel and taking affidavits, and the witnesses' travel and attendance shall be certified by the justice in the affidavit, otherwise the justice shall not be allowed any thing for his fees; for taking affidavits in perpetuam, the same fees to each justice as for the taking other depositions; for taking and certifying the acknowledg-

ment of any deed or other instrument seventeen cents, but if there be more than one person who shall acknowledge the same instrument and the acknowledgment be made at different times, then seventeen cents for each time of taking and certifying; for granting warrant of appraisement and swearing the appraisers twenty-five cents; for every actual trial upon issue joined either upon matter of law or fact fifty cents; for administering oaths in all other cases, and certifying the same (except the oaths of office administered to town officers, and oaths administered to witnesses in the trial of causes before the justice) seventeen cents.

Fees of justices of the peace in criminal causes.

For every warrant founded on a complaint for any offence twenty-five cents; for drawing a complaint thirty-four cents; for granting an appeal seventeen cents; for every recognizance seventeen cents; for taking bail of persons committed in criminal causes thirty-four cents for each offender; for every examination thirty-four cents; for every entry of a complaint and judgment thereon fifty cents; for warrant of commitment and every other warrant, except those above mentioned fifty cents, and for every adjournment seventeen cents.

In criminal causes.

In cases of forcible entry and detainer.

The justices for every day's attendance one dollar each, to the witnesses and parties the same as in other cases; to the jurors sixty cents per day for their attendance, and the same travel as jurors at the superior court; to the sheriff one dollar per day.

Forcible entry, &c.

Fees of the justices of the court of common pleas.

For every action, petition or complaint entered in the court of common pleas, the justices thereof shall be paid ninety cents; for every appeal seventeen cents; for receiving the proof of a deed in court twenty-five cents; for granting a writ of protection seventeen cents.

Common pleas.

Fees of the clerk of the court of common pleas.

For every action, petition or complaint entered in the court of common pleas, the clerk thereof shall receive sixty cents, in full for entry, verdict, nonsuit or default, judgment, recording, and every other service relative to such action, petition or complaint for which no fees are otherwise particularly prescribed by this act; the said clerk paying thereout the crier's and sheriff's fees for default or nonsuit, said sum together with ninety cents for the justices, to be paid at the time of entry; for a blank writ and summons ten cents; for a writ of protection twelve and an half cents; for each execution seventeen cents; for entering satisfaction of a judgment six cents; for entering a continuance twelve and an half cents; for each venire to be paid out of the county treasury four cents; for every writ of possession twenty-five cents; for each writ of subpœna ten cents.

Clerk of common pleas

Fees of the justices of the superior court.

Justices superior court.

For the entry of every action, petition or complaint at the superior court, the justices thereof shall be paid two dollars, except in appeal from a justice of the peace, which entry shall be one dollar and fifty cents only; for taking special bail thirty-four cents; for a writ of habeas corpus twenty-five cents; for allowing a bill of cost twelve and an half cents; for granting a writ of protection seventeen cents; for every deed proved in court seventeen cents; for allowing a writ of error seventeen cents; for every acknowledgment of satisfaction of a judgment on record seventeen cents.

Fees of the clerk of the superior court.

Clerk.

For the entry of every action or petition sixty-seven cents; for entry of a complaint for not prosecuting an appeal thirty-four cents; for entering a judgment and recording it at large thirty-four cents; for a writ of review fifty cents; for a writ of scire facias fifty cents; for a writ of execution twenty-five cents; for a writ of possession fifty-eight cents; for a writ of habeas corpus thirty-four cents; for entering an appearance at the request of any party ten cents; for entering a satisfaction of a judgment on record twelve cents and an half; for entering a continuance seventeen cents; for filing papers two cents each; for certifying the proof of a deed in court seventeen cents; for each venire on certificate of the justices of the superior court four cents, to be paid out of the county treasury; for a subpœna seventeen cents; for every recognizance seventeen cents; for every writ of protection seventeen cents; for discharging a recognizance seventeen cents.

Sheriff's fees.

Sheriff's.

For the service of a writ of summons or scire facias, either by reading it to the defendant or leaving a copy twenty-three cents for each defendant; for the service of a writ of attachment with or without a summons twenty-three cents for each defendant; for a bail bond to be paid by the person bailed, seventeen cents; for the service of a writ of possession, the same as for the service of the original writ on which it was obtained, with poundage for the costs as in personal actions; for levying executions in personal actions and extents two and an half cents on the dollar for the first fifty dollars, two cents on the dollar for the second fifty dollars, one cent on the dollar for all sums from one hundred dollars to three hundred dollars; for all sums above three hundred dollars, a half cent on each dollar; the poundage on extents to be taken in the same paper bills, notes, orders or certificates as the same extents issued for; for travel for the service of each writ, execution or extent three cents per mile, the travel to be computed from the place of service to the office, place or court to which the writ is returnable by the way most commonly used, and where there are sev-

eral persons in the same writ, execution or extent upon whom it is served, the travel shall be computed from the remotest of them, and no more to be allowed for travel than if it were served only on the remotest person as aforesaid; provided that no more than fifty miles travel shall be allowed the sheriff or other officer serving any writ, execution or extent in any case, the travelling fees and fees of service to be endorsed on the writ in mesne process, and no more shall be allowed in any case than is so endorsed, and also the fees for service, poundage and travel on executions and extents, shall be particularly set down and expressed thereon; for summoning witnesses seventeen cents each; for serving a writ of execution for partition of real estate, on a judgment of court eighty-three cents per day, and for travel and expenses four and an half cents per mile; for every trial eleven cents to be paid with jurors' fees; for every default six cents; for attending the grand jury thirty-four cents per day; for attending the petit jury twelve and an half cents each case, to be paid with the jurors' fees; for dispersing venires four cents each, to be paid out of the county treasury; for dispersing proclamations to be paid out of the county treasury four cents each.*

* For extra fees, see act of June 23, 1813, p. 139.

Coroner's Fees.

For serving writs, the same fee for travel and service as to the sheriff; for every trial where the sheriff is concerned eleven cents; to be paid with the jury's fees; for taking an inquisition one dollar and fifty cents; to the foreman of the jury fifty cents, and other jurors forty-two cents per day, and twenty cents for every ten miles travel; to the constable, his expenses in summoning the jury of inquest, and attendance sixty-seven cents per day; all fees attending any inquisition on the death of any person shall be paid out of the estate of the deceased, and in want thereof by the county treasurer, the same being adjusted and allowed by the court of common pleas.

Constable's Fees.

For service of writs, warrants and executions, and for travel the same as to the sheriff.

Crier's Fees.

For every default or nonsuit eleven cents; for every verdict to be paid with the jury's fees eleven cents.

Judge of Probate and Register's Fees.

For granting administration or guardianship one dollar including the bonds, letters of administration and guardianship, whereof two thirds to the register, and if more than one minor be put under the same guardian at the same time, then for every such one to the judge ten cents, and to the register twenty cents; for taking the proof of a will or

codicil, entering the oaths of the witnesses and certifying the same, and recording the whole, if but one page one dollar forty cents, to be equally divided between the judge and register, if more than one page then the same for recording every such page as in other cases, to the register only; for examining accounts of executors, administrators or guardians thirty-four cents a page; for allowing and making a decree on such accounts fifty cents; for every allowance and confirmation of the division of any real estate fifty cents; for every citation seventeen cents to the register, and to the judge seventeen cents; for every order or warrant for dividing real estate seventeen cents to the judge, and thirty-four cents to the register; for every commission to examine claims to insolvent estates thirty-four cents to the register, and seventeen cents to the judge; for every license to sell real or personal estate fifty cents, one half to the judge and the other half to the register; for making the proportion among the creditors to an insolvent estate to be allowed one dollar for every twenty creditors, and in that proportion for a greater number; to the judge for a decree or order to the executor or administrator to pay the several creditors according to the computation and proportion aforesaid thirty-four cents; for a quietus seventeen cents to the judge, and seventeen cents to the register; for attending a dispute concerning the right of parties in any case, and an hearing by counsel including the decree thereon, fifty cents to the judge and fifty cents to the register; for granting an appeal to the supreme court of probate, and taking bond for prosecution fifty cents to be equally divided between the judge and register; for passing an order for putting any bond in suit, thirty-four cents to be equally divided between the judge and register, and fifty cents for taking a bond of indemnification, one half to the judge and the other half to the register.

Fees in the Secretary's Office.

Secretary. For every commission for any person to an office of profit to be paid by the person commissioned one dollar; for every certificate under the seal of the state fifty cents; for every military commission to be paid out of the publick treasury fifty cents; for each petition of a private nature to the general court fifty cents to be paid by the petitioner.

Gaoler's Fees.

Gaoler. "For receiving any prisoner into custody twenty-five cents, and the like fee for discharging the prisoner; to each prisoner's diet one dollar and twelve cents per week."*

*Repealed by act of Dec. 16, 1812.

Grand Juror's Fees.

To the grand jurors sixty-seven cents per day, to be paid out of the county treasury, and four cents per mile for their travel to and from court. Grand jurors.

Petit Juror's Fees.

To the foreman in every cause at the superior court fifty cents, each other juror forty cents; and at the court of common pleas, to the foreman in each cause forty-five cents; and to each other juror forty cents; and each petit juror attending either of the courts aforesaid, shall be paid out of the treasury of the county where said court is holden, six cents per mile for his travel to and from court. Petit.

Parties' and Witnesses' Fees.

The witnesses before any justice of the peace, and at any of the courts aforesaid, shall be allowed for each day's attendance forty cents, and for every ten miles' travel out and in forty cents, a ferry or toll bridge to be reckoned as three miles travel, and in the same proportion for a less number of miles; the parties attending the courts aforesaid, for each day's attendance twenty-five cents, and twenty five cents for ten miles travel to and from court; to the party for summoning witnesses, the same as to the sheriff when he does it, seventeen cents each witness. Parties and witnesses.

See act of
Nov. 5, 1813.

Every plaintiff in his bill of costs in cases where the defendant is defaulted, never having made any appearance or defence shall be allowed no more travelling fees than for what he travels in the county where the court is holden in the most usual way of travelling from the place where he lives to the court.

Provided, nevertheless, That the plaintiff or defendant in any case whatever, shall be entitled to no more travel than from the line of the county, unless in cases of his appearance in person.

Fees of Notary Publick.

For every protest under seal, one dollar; for every certificate under seal fifty cents; for waiting on a person to demand payment or to witness any matter, and certifying the same under seal, one dollar. Notary.

Attorney's Fees.

There shall be allowed in every bill of cost taxed for the plaintiff in the court of common pleas, the case originating there, one dollar and thirty-four cents for the writ including the declaration and attorney's fees, and to the defendant recovering cost in said court and the party, whether plaintiff or defendant, recovering costs on an appeal from a justice of the peace, there shall be taxed one dollar and ten cents for attorney's fees; for the party recovering a bill of cost at the superior court for attorney's fees two dollars; for every complaint entered at the superior court, including drawing the complaint, one dollar and thirty-four Attornies.

Fees for
copies and for
recording.

cents ; attorney's fee for drawing a writ triable before a justice of the peace fifty cents ; attorney's fee for pleading for a defendant before a justice of the peace fifty cents ; drawing a complaint for discontinuance of an action before a justice of the peace fifty cents ; to the secretary of the state, the clerk of the superior court of judicature, clerk of the court of common pleas, justices of the peace, register of deeds, register of probate, town clerks, notaries publick, sheriffs, and all other persons whose duty it may be by law to give any copies, or to record any proceedings other than such for which particular fees are or shall be established, there shall be allowed twelve cents and an half for every page so recorded or copied, reckoning two hundred and twenty-four words for a page, and any part less than a page eight cents, and for every certificate on a copy of the whole case ten cents.

Fees of the Recorder of Deeds.

Recorders.

For a certificate on a deed of the time when and the place where recorded, and for every other certificate by him made, four cents ; for examining the records at the request of any person four cents for each book examined ; for discharging a mortgage on the record, as the law directs seventeen cents.

Penalty.

Repealed by
act of June
19, 1813.

SECT. 2. *And be it further enacted*, That if any person or persons shall demand and take any greater fee or fees for any of the services mentioned in this act, or any other law of this state, than is herein, and thereby provided and declared, he or they shall forfeit and pay to the person or persons suing for the same, the sum of thirty dollars for every such offence, to be recovered by action of debt in the court of common pleas, besides being liable to an action for damages, by and for the party injured, to recover back the sum or sums so unlawfully taken.

Repeal.

Proviso.

SECT. 3. *And be it further enacted*, That the act, entitled, "an act regulating fees," passed the ninth day of February, Anno Domini one thousand seven hundred and ninety-one, establishing the rate of fees to be taken by the several officers therein mentioned, be, and the same is hereby repealed. *Provided*, that the foregoing act, or any clause therein contained shall not be in force, or take effect until after the first day of March next, any thing therein contained to the contrary notwithstanding.

Approved December 16, 1796.



Passed June
19, 1805

AN ACT in addition to and amendment of an act, entitled, "An act regulating Fees."

BE it enacted by the senate and house of representatives, in general court convened, That for every action, petition or complaint entered in the court of com-

mon pleas, the clerk thereof shall receive thirty cents in full for entry, verdict, nonsuit or default, judgment, recording and every other service relative to such action, petition or complaint for which no fees are particularly prescribed by said act; the said clerk paying thereout the crier's and sheriff's fees for default or nonsuit, and the remainder of such part of the fees for the entry of actions, petitions and complaints as have heretofore been paid to the clerk of said courts of common pleas, shall be paid by the clerk of said courts into the treasuries of said counties respectively for the use thereof.

Clerk com.
pleas fees re-
duced.

Approved June 19, 1805.

AN ACT to regulate the taxing of bills of cost in actions before Justices of the Peace in certain cases.

Passed Dec.
31, 1805.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That in every action brought before a justice of the peace where the plaintiff doth not appear in person, the plaintiff in his bill of cost shall in no case be allowed more for his travel than he would be entitled to, provided he lived within ten miles of the place of trial.

SECT. 2. *And be it further enacted,* That this act shall not take effect or be in force until the first day of May next.

Approved December 31, 1805.

AN ACT in addition to an act, entitled "An act, regulating Fees."

Passed Dec.
16, 1812.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, the gaoler's fees shall be as follows, to wit: for receiving any prisoner into custody twenty-five cents, and the like fee for discharging the prisoner; for each prisoner's diet, one dollar and thirty-four cents per week.

Gaoler's Fees.

SECT. 2. *Be it further enacted,* That the section of the act to which this act is in addition, which is in the following words, to wit: "gaoler's fees for receiving any prisoner into custody twenty-five cents, and the like fee for discharging the prisoner; to each prisoner's diet one dollar and twelve cents per week," be, and hereby is repealed.

Section in former act repealed.

Approved December 16, 1812.

Passed June
19, 1813.

AN ACT in addition to "An act regulating Fees," passed December 16, 1796.

Penalty for
demanding
unlawful fees.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any person or persons, in any office recognized by the laws of this state, shall hereafter demand any greater fee or fees for any services, than what are by law prescribed for such services, he or they shall, on conviction, forfeit and pay for every such offence a sum not less than ten dollars, nor more than fifty dollars, and cost of prosecution; one half to be paid to the complainant or prosecutor, and the other half for the use of the county in which the offence is committed: and whenever the complainant is any other than the party aggrieved, the court may order the defendant or defendants to refund whatever sum may have been taken illegally, and reasonable cost; provided the aggrieved party appear and prove, to the satisfaction of the court, the exact amount of fees illegally taken by the defendants.

Mode of pro-
cess.

SECT. 2. *And be it further enacted,* That the mode of process, for the recovery of damages that may accrue from offences committed under the act to which this is an addition, or any other act regulating fees, may be by action of debt, or by complaint to the grand jury for the county in which the offence is committed; and the grand jurors, and the attorney general for the time being, respectively, are hereby authorized and required to hear, sustain, and prosecute, any complaint that may be presented to them by virtue of this act, in the same manner as has been heretofore practised in cases of complaint for crimes which are by them cognizable.

Section re-
pealed.

SECT. 3. *And be it further enacted,* That the last section but one, in the act to which this is in addition, be, and the same is hereby repealed.

Approved June 19, 1813.

Passed Nov.
5, 1813.

AN ACT in addition to an act, entitled, "An act regulating Fees," passed December 16, 1796.

Witnesses'
fees.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, all witnesses, who shall attend the supreme judicial court, or either circuit court of common pleas, or any court of probate, within this state, shall be allowed for each day's attendance, at either of the courts aforesaid, the sum of seventy-five cents, instead of forty cents, as is provided in the act aforesaid.

Approved November 5, 1813.

AN ACT prescribing the duty and regulating the office of Sheriff. Passed February 8, 1791.
[Sept. 15, 1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the sheriff of each county in this state shall have power to appoint a deputy or deputies under him, for whose conduct in office he shall be accountable; and shall by himself or deputy, serve and execute within his county, all writs and precepts to him directed, issuing from lawful authority. Sheriff may appoint deputies and serve writs.

SECT. 2. *And be it further enacted,* That the sheriff of each county shall have the custody, rule, keeping and charge of the gaol or gaols in his county, and prisoners therein, and shall keep the same either by himself or his deputy, for whom he shall be answerable, and shall give sufficient security, in a sum not exceeding three thousand pounds, nor less than one thousand pounds, to the acceptance of the justices of the court of common pleas, in the same county, to the treasurer of this state for the time being, for the faithful performance of the duties of his office, in all parts thereof. Sheriff to keep the gaols. And no sheriff hereafter to be appointed, shall be considered as qualified to perform the duties of his office, until he shall have given such security as aforesaid. Must give bonds.
See act of 24th of June, 1813.

SECT. 3. *And be it further enacted,* That if any sheriff, deputy sheriff or constable shall neglect to serve any precept issuing from lawful authority, directed unto such sheriff, deputy sheriff or constable, and delivered unto him to serve and execute, having in all civil causes tendered unto him his legal fees for serving and executing the same, every such sheriff, deputy sheriff or constable shall forfeit and pay the sum of ten pounds to any person who will sue for the same, or in case of neglect of any person to sue therefor, within three months after such default or neglect of duty of such sheriff, deputy sheriff or constable, then the same may be recovered by indictment, at any time within one year then afterwards—in which case the whole fine or forfeiture before-mentioned shall be for the use of the county. Penalty for neglecting to serve a precept.

SECT. 4. *And be it further enacted,* That every sheriff, deputy sheriff or other officer, in the execution of his office, for the preservation of the peace, or for apprehending or securing any person or persons for violating the same, or for any other criminal matter or cause, be, and hereby are empowered to require suitable aid and assistance in the execution of his said office; and if any person when so required shall neglect or refuse to give such aid and assistance, such person on conviction thereof, before any justice of the peace, shall be fined to the use of the town where the offence is committed, a sum not exceeding forty shillings, and if unable to pay, shall be set in the stocks not exceeding four hours. Sheriff, &c. may require aid.

Penalty for assuming the office.

SECT. 5. *And be it further enacted*, That if any person not being a sheriff, deputy sheriff or other officer, whose duty it is to keep the peace, or apprehend persons for violating the same, shall falsely pretend to be any or either of said officers, and shall presume to act as such, or to require any other person or persons to aid or assist him in any matter or thing belonging to the duty of a sheriff, deputy sheriff or other such officer so assumed as aforesaid, he shall upon conviction for any such offence, forfeit and pay a fine not exceeding one hundred pounds, according to the nature and circumstances of his offence, at the discretion of the court before whom the conviction shall be, one moiety of which fine shall be to the use of the county in which the offence is committed, and the other moiety to him or them who will sue for the same in any court of common pleas.

Sheriff accountable for fines.

SECT. 6. *And be it further enacted*, That the sheriffs of the respective counties in this state, shall be accountable to the treasurer of this state, and the treasurers of the respective counties for all fines and forfeitures, set and imposed by the court of general sessions of the peace, and the superior court of judicature, accruing to the said state and the several counties respectively; and the said sheriff shall immediately on the receipt of such fine or forfeiture, or immediately upon his voluntarily or negligently permitting any prisoner on whom the same was set or imposed to escape, pay the same, when for the use of said state, to the treasurer thereof, and when for the use of any county, to the treasurer thereof; and upon his neglect, or refusal so to do, he shall forfeit and pay treble the amount of such fine or forfeiture, on action brought by the treasurer, to whom the same was payable, with double costs of suit, and such neglect of payment, notwithstanding such recovery by action, shall be considered as a good ground of removal of such sheriff from office.

Clerks to certify lists of fines.

And the clerks of the respective courts shall, immediately upon the rising of each of the said courts, make out a list and attest the same, of all such fines and forfeitures, and deliver the same to the sheriff, and a like attested list to each of said treasurers, of the fines and forfeitures to them respectively payable; and when it shall appear to the court of general sessions of the peace in any county, that the fine, forfeiture or costs, for which any person shall be committed to the custody of the sheriff, hath not and cannot be recovered of such person, they shall certify the respective treasurers thereof, and such certificate shall bar any prosecution therefor by either of said treasurers. And if any clerk shall neglect his duty herein, he shall forfeit the sum of five pounds to any person who will sue for the same, in any court of common pleas, to the sole use of the person suing.

SECT. 7. *And be it further enacted*, That the sheriff of each county shall annually lay before the justices of the

court of general sessions of the peace, his account for all services done by himself or deputies, for dispersing venires, proclamations, and for all other services, by law to be paid out of the county treasury, and such allowance shall be made him as justice may require, and no account for any service of any sheriff or deputy sheriff, after the passing of this act, shall be considered as good against the county, unless the account of such service be presented within one year from the time of performing said services, provided the court of general sessions of the peace shall have been open to receive the same.

Sheriff to settle his account annually.

SECT. 8. *And be it further enacted,* That if any sheriff or deputy sheriff shall, on demand made, refuse to pay the creditor in any execution, all such sums of money as the said sheriff or deputy shall have received on such execution, he shall forfeit and pay the person to whose use he received such money, five times the lawful interest thereof, so long as he shall detain the same, after demand made.

Penalty for refusing to pay over money to creditor.

SECT. 9. *And be it further enacted,* That no sheriff or deputy sheriff shall be suffered to appear in any court, or before any justice of the peace, as attorney to any party in a suit, nor shall any sheriff or his deputy be allowed to make any process, draw any writ or declaration, or make any plea for any other person, and all such acts done by either of them shall be void.

No sheriff to appear as an attorney.

SECT. 10. *And be it further enacted,* That when judgment shall be rendered against any person holding the office of sheriff, either in his official or private capacity, for any sum of money, the execution thereon shall be against his goods, chattels and lands, but not against his body; and if such execution be returned unsatisfied, the creditor may file such execution and the return thereon with the secretary of the state, who shall thereupon issue a notification to said sheriff, informing him thereof, and of the day when the same was filed. And if such execution remain six months unsatisfied after such notification is served on said sheriff, the president and council shall forthwith remove such sheriff from his office, and when any sheriff shall be removed from his office, execution may then issue against his goods, lands and body as in other cases.

Executions against a sheriff.

And when any sheriff is removed from office, he shall and may execute all precepts in his hand at the time of such removal from office.

SECT. 11. *And be it further enacted,* That any sheriff though removed from office, shall have the custody of all prisoners, and the keeping of the gaol, until another sheriff be appointed and qualified as the law directs; and every sheriff so removed shall deliver over to his successor all such prisoners.

Sheriff removed to deliver over his prisoners to his successor.

Passed February 8, 1791.

Passed June
24, 1813.

AN ACT in addition to an act, entitled, "An act prescribing the duty and regulating the office of Sheriff."

Sheriffs to
have charge
of county
gaols and pris-
oners.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That the sheriff of each county in this state, now in commission, and every sheriff who may hereafter be legally appointed, shall have the custody, keeping, and charge, of the gaol or gaols in his county, and of the prisoners therein; and shall keep the same either by himself or his deputy, for whose doings he shall be accountable.*

Bonds

to the accep-
tance of the
justices of the
circuit court
of common
pleas.

SECT. 2. *And be it further enacted, That the sheriff of each county in this state, now in commission, and every sheriff who may hereafter be appointed, (instead of the bonds which the act to which this act is an addition requires) shall be required to give bonds, with sufficient sureties, in the sum of thirty thousand dollars, to the treasurer of this state, for the faithful performance of the duties of his office, in all parts thereof; except the sheriff of the county of Grafton, who shall be required to give bonds in manner aforesaid in the sum of twenty thousand dollars; and except the sheriff of the county of Coos, who shall be required to give bonds in manner aforesaid in the sum of ten thousand dollars; all which bonds shall be made to the acceptance of the justices of the circuit court of common pleas; a copy of which bonds, so given, shall always be retained in the office of the clerk of the circuit courts of common pleas for the same county.*

Justices of the
circuit court
of common
pleas to noti-
fy the sher-
iffs.

SECT. 3. *And be it further enacted, That the justices of the circuit courts of common pleas in this state, be, and they hereby are, authorized and required, in the term of said court which shall be in course in the several counties in this state, on or next after the first day of August, in the year of our Lord one thousand eight hundred and thirteen, to give notice to the sheriff of the county in which said circuit court should be holden as aforesaid, that in pursuance of this act, he is required to make and renew his bond, agreeably to the first section hereof; and the justices of the several circuit courts of common pleas be, and they hereby are, authorized and required, in the term of said court which shall be held in course in the several counties in this state, on or next after the first day of August annually, to consider of the sufficiency of the security given by the sheriff in their respective counties, in pursuance of this act; and in case they shall find and determine the same to be insufficient, they shall cause a record of such determination to be made by the clerk of their court; and shall also cause the sheriff, whose security shall be found insufficient, to be served with an attested copy of such record, and shall require him to procure and give new security, to the satisfaction of said*

In case of in-
sufficient se-
curity,

other security
required.

justices, on or before the term of the court next following the term in which said insufficiency shall be recorded as aforesaid....*Provided*, That said justices do not require, in any case, the penal sum of said sheriff's bond to exceed the sum set forth in the second section of this act. Proviso.

SECT. 4. *And be it further enacted*, That if any sheriff now in commission, or if any sheriff who may hereafter be appointed, shall neglect to give the new security, pursuant to this act, which may be required by the justices of the circuit courts of common pleas, at their session to be holden in said sheriff's county, the name of the sheriff so neglecting to give or renew his security as aforesaid, shall be certified by said justices to the governor and council of this state for the time being; and the governor, with the advice of the council, shall thereupon remove such sheriff from his office, and appoint some other person in his stead; unless reasonable cause, to the satisfaction of the governor and council, shall be assigned for said neglect, and unless such sheriff, whose name and neglect shall be certified as aforesaid, shall give or renew his security (as the case may be) to the satisfaction of the governor and council, within twenty days after said certificate shall be made as aforesaid. Sheriff neglecting to give required security.
Governor and council to be certified.
Removal and new appointment.

SECT. 5. *And be it further enacted*, That whenever a vacancy of the office of sheriff of any county in this state, arising from any cause whatever, shall happen, his deputy or deputies shall continue in office, and execute the same in the name of the said sheriff, until another is appointed and sworn into that office: *Provided* the appointment be made at the next meeting of the governor and council after such vacancy shall happen: and such deputy or deputies shall be hereby authorized, in the name and at the responsibility of their said sheriff, to complete all business which may have been intrusted to them previous, as well as subsequent, to the happening of such vacancy, until the appointment shall be made in manner aforesaid. *Provided also*, That such deputy or deputies shall not be authorized hereby to receive any business after the expiration of thirty days from the time such appointment shall have been made by the governor and council as aforesaid. Deputies to act in case of vacancy.
Proviso.

Approved June 24, 1813.

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AN ACT providing relief for Sheriffs and other officers, in certain cases. Passed June 23, 1813.

BE it enacted by the senate and house of representatives, in general court convened, That when any sheriff, deputy sheriff, constable, or other officer, shall, by virtue of any legal precept to him directed, attach any personal estate, and be put to trouble and expense in moving the same; or when any such officer shall, by virtue of such precept, Fee for extra services.

Items to be noted on the precept.

arrest the body of any person, and find it necessary to have and procure assistance; the court, where final judgment may be rendered on said precept or action, shall have power to allow the officer serving said precept, and performing said extra services, in addition to his legal fees, such sum or sums as said court may deem just and reasonable; to be taxed in the bill of cost: provided each item of said extra expense and trouble be noted, by the officer who served said precept, on the back thereof.

Approved June 23, 1813.

Passed June 22, 1814.

AN ACT Regulating suits on Sheriffs' Bonds.

Bonds to be sued in the name of the treasurer, not discontinued by his death, &c.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That when the condition of any bond, which now is, or may hereafter be given, to the treasurer of this state, by any sheriff, for the faithful performance of the duties of his office, and to answer for the malfeasance or misfeasance of all his deputies, shall be broken, to the injury of any person, such person may cause a suit to be instituted upon such bond, at his own cost, but in the name of the treasurer; and if, pending such suit, the person being treasurer shall, by death, resignation, removal, expiration of his term of office, or other cause, cease to be treasurer, said suit may be prosecuted to judgment and execution, in the name of his successor or successors; provided, however, that no such suit shall be instituted on such bond by any person for his own use, until such person shall have recovered judgment against the sheriff, his executors or administrators, in an action brought for the default, malfeasance, misfeasance, or nonfeasance, of the sheriff, or his deputy.

Actions may be brought against sheriffs' executors &c.

Proviso.

SECT. 2. *And be it further enacted,* That actions for the malfeasance, misfeasance, or nonfeasance, of any sheriff, or of any of his deputies, may be sued against the executors or administrators of such sheriff, in the same manner as if the cause of such action survived against the executor or administrator at the common law: Provided, however, That this act shall not be understood to make any surety in any bond given by the sheriff as aforesaid, before the passing of this act, liable to any suit which could not heretofore be legally prosecuted against him.

SECT. 3. *And be it further enacted,* That it shall be the duty of the treasurer aforesaid to deliver an attested copy of any sheriffs' bond to any person applying and paying for the same; and such attested copy shall be received as evidence in any case. Provided, nevertheless, That if, in any suit, the execution of the bond shall be disputed, the court may order the treasurer to bring the original bond with him into court.

SECT. 4. *And be it further enacted, That in any suit on such sheriffs' bonds, the declaration of the writ shall set forth the condition of the bond, and assign the breach or breaches relied upon in the action; and judgment in such suit shall not be a bar to any other action of debt on said bond assigning other breaches: and if, in any such suit, the defendant or defendants shall recover judgment for costs, execution therefor shall not issue against the treasurer; but the endorser of the writ shall be liable to pay the same; and scire facias may be sued out against such endorser, without the issuing or return of a writ of execution against the treasurer.*

Declaration to set forth the condition of the bond, and assign the breach.

Defendant recovering cost—to have scire facias against endorser.

Approved June 22, 1814.

AN ACT making provision in case of the death, resignation or removal from office of the sheriff of any county. Passed Dec. 10, 1791.

WHEREAS many and great inconveniences may arise in consequence of the death, resignation or removal from office of the sheriff of any county of this state from the want of provision being in such cases made by law:

For remedy whereof,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That from and after the passing this act, in case of the death, resignation or removal from office of the sheriff of any county, his deputy or deputies shall continue in office and shall execute the same in the name of the said sheriff, until another shall be appointed and sworn into that office, and until they shall have completed all business which may have been intrusted to them previous to such decease, resignation or removal from office. And the defaults and misfeasances of such deputy or deputies, in the mean time, as well as before, shall be adjudged a breach of the condition of the bond or bonds to the sheriff who shall have deceased, resigned, or have been removed from office as aforesaid, and the executor or administrator of the deceased sheriff shall have like remedy for the defaults or misfeasances in office of such deputy or deputies during such interval as they would have been liable to, if the sheriff had continued in life and in the exercise of his office.*

In case of vacancy deputies to continue in office.

See act of 24 June 1813, Section 5, p. 139

SECT. 2. *And be it further enacted, That in case of the resignation or removal from office of any sheriff, he shall be held answerable for completing all business which may have been committed to his care, and for the delivery to his successor of all prisoners who may be in his custody at the time of his resignation or removal from office; and for that purpose may detain such prisoners in his custody until his successor shall be appointed and qualified as by law directed.*

In case of resignation, &c. sheriff to be answerable.

Sheriffs to appoint gaol keepers.

SECT. 3. *And be it further enacted*, That it shall be the duty of the sheriffs in this state, in their respective counties to appoint one or more gaol-keepers, as occasion may require, with full power, and whose duty it shall be, in case of the absence, death or other disability of any such sheriff, to take all necessary care of the gaols and prisoners confined therein, as fully and amply to all intents and purposes as any such sheriff might or ought to do; which gaol-keepers shall in case of the death or other disability of the sheriff or sheriffs so appointing him or them, hold his or their said appointment until other sheriff or sheriffs shall be sworn into office, and shall in all cases be responsible for their conduct therein, in the same way and manner as deputy sheriffs are in this act made responsible.

Passed December 10, 1791.

Passed Dec. 13, 1796.

AN ACT to direct the mode of appointment of Deputy Sheriffs within this state, and of their dismissal from office.

Deputations.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That all deputations or appointments of deputy sheriffs in the several counties within this state, shall be in writing under the hands and seals of the sheriffs of the respective counties for and within which they are, or may be appointed.

Deputies to be sworn.

SECT. 2. *And be it further enacted*, That it shall be the duty of each and every deputy sheriff within this state, to make oath before some justice of the peace for and within the county for which such deputy sheriff is or may be appointed, faithfully to discharge the duties of his office, which oath shall be certified by said justice upon such deputation, and the same deputation, with the certificate thereon, shall be recorded at full length by the clerk of the court of common pleas in the same county, and it shall be the duty of such clerk, upon request made and payment or tender of twenty-five cents, to record the same as aforesaid, in a book or books to be by him kept for that purpose.

Oath to be certified, and recorded.

Clerk's duty.

No act to be valid until deputation, &c., be recorded.

SECT. 3. *And be it further enacted*, That from and after the fifteenth day of September next, no service or act of any deputy sheriff, as such within this state, shall be valid or of force until his deputation or appointment, with the certificate thereon shall have been recorded as aforesaid.

Deputies how discharged.

SECT. 4. *And be it further enacted*, That when any sheriff of any county in this state shall see cause to discharge from office any deputy by him deputed or appointed, such sheriff shall by writing under his hand and seal directed to such deputy, notify him thereof, which notification or discharge shall be served by some other deputy sheriff, or credible person within such county, by reading the same to the said deputy therein named, or giving an attested copy there-

of to such deputy so discharged, which said discharge and service thereof, shall be recorded in like manner and for the same fee as in this act is prescribed for the recording of deputations.

SECT. 5. *And be it further enacted*, That the sheriff in each county respectively, shall in all respects be responsible for the acts, malfeasance, misfeasance and nonfeasance of each of his deputies respectively, until such discharge and certificate of the service thereof shall have been recorded as aforesaid. Sheriff responsible.

Provided, nevertheless, That a service and return of any legal precept may be made by any person, by virtue of a special deputation endorsed on the back of such precept, in manner and form as has heretofore been in practice in this state, any thing in this act to the contrary notwithstanding.

Approved December 13, 1796.

AN ACT providing for the regulation and government of the State Prison. Passed June 19, 1812.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That criminals convict, sentenced to confinement to hard labour, for life, or any other term, or to solitary imprisonment and hard labour, shall and may be imprisoned, restrained and employed in, and within the precincts of the state prison, situate in Concord, in the county of Rockingham: and the court before whom such conviction may be, are hereby authorized and empowered, by their order on the sheriff of the county where any such conviction is had, to cause all such convicts as soon as conveniently may be, after sentence, to be removed from any gaol in said county to the state prison. And the sheriff of the county in which said conviction may be had, is hereby authorized and empowered by himself or his deputies to remove such convicts to the state prison accordingly, and deliver the same into the custody of the warden thereof; and the said sheriff and his deputies shall have all the power of sheriff and deputies in all counties in this state which he may enter into, or pass through for the purpose of conveying such convicts to the state prison as aforesaid; and it shall be the duty of the clerk of the court before whom such conviction is had, to make out and deliver to the sheriff of the county, a copy of said conviction and judgment, and order thereon, who shall leave an attested copy thereof, with a copy of his return endorsed thereon, with the warden of the state prison; and the said sheriff shall make due return to the court of his service of their said order. Convicts to be removed from county gaols to state prison.

SECT. 2. *And be it further enacted*, That it shall be the duty of the warden of said prison to receive such persons as may be convicted, and sentenced to confinement to Duty of warden.

hard labour or solitary imprisonment, or both, and all such convicts safely to keep, pursuant to their sentence, until the same be performed or they be otherwise discharged by due course of law.

SECT. 3. *And be it further enacted*, That the governor, by and with the advice and consent of the council, be, and hereby is authorized to appoint and commission during pleasure, a suitable person as warden of said prison, who shall have the care, custody, rule and charge of the same, and of all persons confined therein, and of all lands, buildings, machines, implements, tools, materials, stock and provisions appurtenant or belonging to the same, or the precincts thereof. And he shall also be commander of the military force for guarding said prison. And he shall be treasurer of said prison, and receive, pay out and be accountable for all the money granted for maintaining the same, or derived from manufactures and all other concerns of the prison; and he shall cause regular entries to be made by the clerk, in the books of the prison, of all the pecuniary and other necessary concerns of the establishment; and it shall be his duty at the commencement of every session of the general court, to render to said court a fair account, examined and approved by the directors, of all the expenses and disbursements, and of all the receipts and profits on account of said prison, and a statement of its general affairs. And the said warden shall give bond to the state in the sum of twenty thousand dollars, with sufficient surety to be approved by the governor and council, and upon condition that said warden shall faithfully perform all the duties incumbent on him as warden of said prison.

SECT. 4. *And be it further enacted*, That the governor, by and with the advice and consent of the council, be, and hereby is authorized to appoint and commission, during pleasure, three discreet persons to be directors of the state prison, who shall have power from time to time, to appoint during pleasure, all such officers, agents and servants as they may deem necessary for the well ordering, upholding and maintaining of the state prison; to define their powers and prescribe their duties, and to ascertain and fix their compensations, to make, ordain and establish all such rules, by-laws, orders and regulations, not repugnant to the laws of the state, as they may from time to time see fit, for the government and direction of the said warden and all other officers, agents and servants of said prison, and as may be proper for the maintenance and instruction of the convicts—and for the purchase of all materials, machines, tools and implements, provisions, medicines and clothing for the use of the officers and for the use of the convicts, and for the sale and disposition of any articles, tools and manufactures which belong to said prison. And they shall have the sole and exclusive power of directing all matters and things relating to

said prison, the officers, agents and servants thereof, and all convicts therein, and as to the manner of keeping the books and accounts of said prison, which books and accounts it shall be their duty from time to time to examine. They shall have power also, with the approbation of the governor and council, to make such additional buildings or alterations within the bounds of the prison, as they may deem necessary. And said directors shall cause a copy of all by-laws, rules, orders and regulations established by them, to be laid before the governor and council, at the next meeting after the adoption thereof, who may annul the same, or such parts thereof as they may think proper. And it shall be the duty of said directors to meet together at the prison statedly, once at least in every month, to attend to and inspect the concerns of the prison, to cause a record to be kept of their doings, and by turns to visit the prison, at least three times in every week, for the purpose of seeing that the laws and regulations are duly observed, and of attending to the various concerns of the establishment.

Directors with the approbation of governor and council may make additional buildings.

Governor and council may annul by-laws &c. established and laid before them by the directors.

SECT. 5. *And be it further enacted*, That the governor, by and with the advice of the council, be, and hereby is authorized from time to time to draw his warrant upon the treasurer of this state, in favour of said warden, for such sum at any one time as they may deem proper, for all monies which may be appropriated by the legislature for the support of the state prison. And the governor and council for the time being, with the justices of the superior court of judicature, be, and hereby are constituted visitors of the state prison, and it shall be their duty annually, and as much oftener as they think proper, to visit the prison, and to see that all laws and resolutions, by-laws and regulations made for the government and upholding of said prison are duly observed and executed; and the governor and council are further from time to time authorized to raise, appoint and employ a military guard to consist of such officers and privates as they may deem requisite for the safe keeping and employment of the convicts.

Governor with advice of council to draw warrants in favour of the warden for monies appropriated.

Visitors of the prison.

Military guard.

SECT. 6. *And be it further enacted*, That if any director, the warden or any other person employed in the government of the state prison aforesaid, shall fraudulently contrive, procure, aid, connive at, or otherwise voluntarily suffer the escape of any convict therein committed under sentence of confinement as aforesaid, every such person on due conviction thereof, shall, and may be punished by solitary confinement, for a term not exceeding six months, and by confinement to hard labour for a term not exceeding twenty years at the discretion of the court.

Penalty incurred by any officer of the prison fraudulently contriving, &c. the escape of convicts.

SECT. 7. *And be it further enacted*, That if the warden or any other person employed as aforesaid, shall negligently suffer any convict committed and in custody as aforesaid, under sentence of solitary imprisonment, to be at large

Penalty incurred by officers neglecting their duty with regard to convicts.

without the cell or apartment assigned to such convict, or to be there visited, conversed with, comforted or relieved, contrary to the rules and regulations of said prison, or shall negligently suffer such convict, or any convict there committed under sentence of confinement to hard labour, to be at large without the precincts of the said prison, or contrary to the rules thereof to be out of close confinement, the warden or any other person so neglecting his duty in the premises, being thereof duly convicted, shall be punished by a fine not exceeding five hundred dollars.

Penalty for
an attempt
to rescue
convicts.

SECT. 8. *And be it further enacted,* That if any person shall forcibly or fraudulently rescue or attempt to rescue any convict from the custody of any officer or other person authorized or empowered by any order of commitment as aforesaid, or from the state prison, or from any other prison or gaol where such convict may be lawfully committed, pursuant to any sentence of solitary imprisonment, or confinement to hard labour; or shall convey to any convict in custody or committed as aforesaid, or into said state prison, or any other prison, any tool, instrument, weapon or other aid with intent to enable such convict to escape, or to procure the escape of any convict, whether such escape be effected or not, every person so offending, being duly convicted thereof, shall and may be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour not exceeding ten years, or at the discretion of the court may be punished with a fine not exceeding five hundred dollars, and by binding to good behaviour for a term not exceeding three years, according to the nature and aggravation of the offence.

Convict committed for
life, assaulting
an officer
or attempting
to break from
prison,—

how punished

Punishment
for an escape.

SECT. 9. *And be it further enacted,* That if any convict committed to the said state prison under sentence of confinement to hard labour during life, shall assault any director, the warden or other person employed in the government thereof, or shall forcibly attempt to break from the said prison, every such convict so offending, upon due conviction thereof, shall, and may be punished by solitary confinement not exceeding six months, and shall be afterwards there holden in custody upon such former sentence; and every person, being under confinement as aforesaid, who shall escape from said prison, shall for every such offence be further sentenced to solitary imprisonment for a term not exceeding six months.

Convict committed for a
limited time,
assaulting an
officer, or attempting
to escape by violence,
how
punished.

SECT. 10. *And be it further enacted,* That if any convict committed to said state prison under sentence for a limited time, shall assault any director, the warden or other person employed in the care, custody, rule or charge of said state prison, or shall attempt by violence to escape therefrom, every such convict, so further offending, upon due conviction thereof, shall and may be punished by solitary imprisonment not exceeding six months, in addition to any for-

mer like sentence, or to precede the fulfilment of any former sentence to hard labour, as the case may be ; and at the discretion of the court may be further punished by hard labour for a term not exceeding ten years, to commence after such solitary imprisonment, or after any former sentence shall be fulfilled, as the case may be.

SECT. 11. *And be it further enacted,* That it shall be the duty of said warden to receive such persons as may be convicted before any court of the United States, at any term thereof, holden within this state, and sentenced to confinement and hard labour by any such court, and to the said warden delivered by the marshal of the district or his deputy, and all such convicts safely to keep, pursuant to their sentence, until they shall be discharged by due course of the laws of the United States.

Duty of warden to receive persons convicted before any court of the U.S. when delivered by the marshal.

SECT. 12. *And be it further enacted,* That the warden aforesaid shall receive five hundred dollars annually, in full compensation for all services by him rendered in that office, without any other support or maintenance whatever ; and the directors aforesaid shall receive the sum of one hundred dollars each, in quarterly payments, in full compensation for their services respectively.

Salaries of warden and directors

SECT. 13. *And be it further enacted,* That it shall be the duty of the warden, by and with the advice and consent of the directors, to offer such encouragement and indulgencies as may be deemed consistent to those convicts who distinguish themselves by a quiet and ready obedience to the rules and orders made for the government of the prison, by submission to the officers thereof, and by their industry and faithfulness in executing the daily task assigned them ; and the warden is hereby empowered, with the consent of the directors, to punish, by solitary imprisonment, not exceeding thirty days at any one time, all such prisoners confined to hard labour, as shall be guilty of insolence and ill language to any of the officers of the prison, or of obstinate and refractory behaviour.

Encouragement to be offered to convicts who distinguish themselves by a quiet and orderly demeanor.

Punishment to those of a contrary behaviour.

SECT. 14. *And be it further enacted,* That the warden of said prison shall, by warrant under his hand, appoint a deputy to exercise and perform, under his principal, the powers and duties of warden, for whose acts and doings the said warden shall be answerable, and upon the death, removal or resignation of the warden, his deputy and all other persons concerned in the government, guard and custody of said prison, shall continue to exercise their respective offices, and shall have full power and authority so to do, until a warden be duly appointed and commissioned.

Warden to appoint a deputy.

To be answerable for his conduct.

SECT. 15. *And be it further enacted,* That when judgment shall be rendered against any person holding the office of warden of the state prison for any sum of money, the execution thereon shall be against his goods, chattels and lands, but not against his body ; and if such execution be returned

Executions against warden

unsatisfied, the creditor may file such execution and the return thereon with the secretary of the state, who shall thereupon issue a notification to said warden, informing him thereof, and of the day when such execution was filed. And if such execution remain ninety days unsatisfied after such notification is served on said warden, the governor and council shall forthwith remove such warden from his office; and when any warden shall be removed from his office, execution may then issue against his goods, lands and body, as in other cases.

Convicts, who are in custody of the sheriff on civil process, shall by virtue thereof be detained by the warden.

SECT. 16. *And be it further enacted,* That if any convict sentenced to solitary imprisonment or confinement to hard labour, shall, at the time of such sentence, be in custody of the sheriff on any civil process, either mesne or final, it shall be the duty of the sheriff, on the delivery of such convict to the custody of the warden, to leave with the warden attested copies of any such process, by virtue of which said convict may be in his custody. And it shall be the duty of the warden to keep and detain said convict by virtue of said process, as well as by virtue of the sentence to solitary imprisonment or confinement to hard labour. And if, at the expiration of the term for which said convict was sentenced, such process shall not be withdrawn, discharged, satisfied or annulled, the said warden shall still detain said convict thereon, until he be discharged, or remanded whence he came by due course of law.

Approved June 19, 1812.

Passed Feb. 10, 1791.
[Sept. 15, 1792.]

AN ACT regulating Prisons.

Gaolers to return list of prisoners.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That every gaoler or prison-keeper shall at the opening of the superior court of judicature and court of general sessions of the peace, respectively, return a list and certify to such courts respectively, the names of all prisoners then in his custody, with the cause of their commitment, and also the names of all prisoners that shall be committed during the sitting of any such court, that the said courts respectively may take cognizance thereof, and may proceed to make deliverance of such prisoners according to law, for the crimes proper to the jurisdiction of the same courts respectively; and every gaoler who shall neglect his duty herein, shall forfeit such sum as shall be set upon him by the court, not exceeding ten pounds.

Penalty for assisting prisoners to escape.

SECT. 2. *And be it further enacted,* That if any person shall directly or indirectly, by any ways or means, convey any tool, instrument or other thing to any prisoner, or into any prison, whereby such prisoner might break prison, or work him or herself unlawfully out of the same; every person so offending shall forfeit and pay such fine as by the

discretion of the court shall be imposed, not exceeding twenty pounds, or suffer corporal punishment by whipping, not exceeding twenty stripes.

And if it shall happen that any prisoner doth make his or her escape, by means of any tool, instrument or other thing conveyed by any person as aforesaid, or if any person shall in any other way assist any prisoner to escape, who by means thereof doth escape, the person so conveying tools, instruments or other things, or the person so assisting, in case such prisoner so escaping were committed for debt, shall be liable to pay the full debt to the creditor or creditors at whose suit such prisoner stood committed; and in case such prisoner were committed for any crime, the person so assisting shall suffer the same punishment which the prisoner was sentenced to suffer; or in case the escape happen before conviction, the same punishment which the prisoner would have suffered in case of conviction of the crime for which he stood committed; and in either case the person so furnishing tools, instruments or other things as aforesaid, or otherwise assisting as aforesaid, shall at the discretion of the court be fined a sum not exceeding five hundred pounds, or be corporally punished by whipping not exceeding thirty-nine stripes, and find sureties for the good behaviour during the space of one year, at the discretion of the court, upon considering all the circumstances attending such escape. But in case such prisoner were or would have been liable to capital punishment, then the person so furnishing tools, or otherwise assisting, shall be fined, imprisoned or set in the pillory, or any one or more of the said punishments as the court shall think proper to inflict.

SECT. 3. *And be it further enacted,* That every gaoler or prison-keeper, that shall voluntarily suffer any prisoner committed unto him, to escape, shall suffer the like pains and penalties as the prisoner so escaping, should by law, for the crime or crimes whereof he was convicted, or of which he stood charged, if he had been convicted thereof. And in case such prisoner were committed for debt, such gaoler or prison-keeper shall be liable to pay the debt to the creditor, and may be at the discretion of the court fined in a sum not exceeding one hundred pounds.

Penalty for voluntary escapes,

And if any gaoler or prison-keeper shall through negligence suffer any prisoner to escape, such gaoler or prison-keeper shall, in case the prisoner were committed for any crime, pay such fine as the justices of the court shall inflict, according to the nature of the offence for which the escaped prisoner stood convicted, not exceeding one hundred pounds.

for negligent escapes.

And in case such prisoner were committed for debt, such gaoler or prison-keeper shall be liable to pay the creditor the full amount of his debt, and be further liable

to be fined at the discretion of the court, not exceeding fifty pounds.

Prisoners es-
caping may
be recommit-
ted.

SECT. 4. *And be it further enacted,* That if any person furnishing tools, instruments or other things to any prisoner, or otherwise assisting any prisoner charged or convicted of any offence to escape, or if any gaoler, or prison-keeper, who shall voluntarily or negligently suffer any such prisoner to escape, shall within six months next after such escape, recover such prisoner and return him back to prison again, then such person so assisting, and such gaoler or prison-keeper so voluntarily or negligently* permitting such person to escape, shall be liable only to such fine as the court may inflict.

Fines how
disposed of.

All fines and forfeitures arising by this act, shall be paid to the county treasurer.

Prisoners es-
caping liable.

SECT. 5. *And be it further enacted,* That in all cases where the sheriff, gaoler, prison-keeper, or other person, have been compelled to pay any sum or sums of money on account of any prisoner's escape, he or they shall be entitled to his, or their remedy against such prisoner.

Sessions to
build and re-
pair gaols.

SECT. 6. *And be it further enacted,* That the court of general sessions of the peace shall have the care of building, inspecting and repairing all prisons, court-houses and other necessary edifices for the use of the county, and shall at the beginning of every term inquire into the state of the prisons in their respective counties, with respect to the security of such prisons from escape, the condition and accommodation of the prisoners, and shall from time to time take care to secure them from escape, sickness and infection.

County liable
for escapes
through the
insufficiency
of the gaol.

SECT. 7. *And be it further enacted,* That in case of the escape of any prisoner committed for debt, through the insufficiency of the gaol or prison in any county, the sheriff shall stand chargeable to the creditor or person to whose use any forfeiture was adjudged, or any damages or costs awarded against such prisoner, for the full amount of such damages and costs, and shall have his remedy against the county on application to the court of general sessions of the peace in the same county, and if said court shall not cause payment to be made to the sheriff within six months after the application made, such sheriff shall then, and not before beat liberty to bring his action against the inhabitants of the same county, to be heard and tried in that or an adjoining county, at his election; an attested copy of the writ being left thirty days before the time of trial, by any coroner of the county against whom the action is brought, shall be sufficient notice of the suit, and the justices of the court of general sessions of the peace shall have full power to appoint an agent or agents to appear and defend such action, and when no court of general sessions of the peace shall have been holden in the

county against which the action is brought, after the service of the writ, the court shall order the action to be continued to the next term, and until a court of general sessions of the peace shall have been holden in the same county, and all advantages shall be saved to the defendants in the same manner as though they had appeared at the first term, and if judgment be given against such county, the jury may give such sum in damages, in addition to the sums actually paid by such sheriff to the creditor or creditors, as they may think reasonable, as a compensation for his trouble in the same suit, besides costs, and execution may be levied on the estate of any of the inhabitants of such county. And the person upon whose estate such execution is levied, may thereupon have an action against the county; the writ to be served and the action prosecuted in the same way and manner, as the action brought by the sheriff as before mentioned, to recover the monies so levied, and shall have in case of recovery double costs of suit.

SECT. 8. *And be it further enacted,* That the prison-keeper shall furnish and provide each prisoner committed for debt, or for any crime, diet and sustenance such as the justices of the sessions may order, for which the prisoner if he be committed for debt, before he be discharged, shall pay at the rate of five shillings per week, or such sum as the court of general sessions of the peace shall order, and in case the prisoner be committed for any crime, three shillings per week, or such sum as the said court shall order, and the prison-keeper shall furnish them with diet in that proportion as to quality.

Keeper to supply the prisoners.

SECT. 9. *And be it further enacted,* That if any prison-keeper shall defraud the prisoners of their allowance, or shall not afford them sustenance and accommodations equal to what such prison-keeper is paid therefor, any court on complaint of the prisoner and proof sufficient, shall and may amerce such prison-keeper in such sum as they may think just and reasonable, considering the nature and aggravation of his offence, not exceeding for one offence, five pounds.

Penalty for defrauding prisoners of allowance.

SECT. 10. *And be it further enacted,* That no person convicted and sentenced for theft, shall be held in prison on account of restitution or damage awarded to the party injured, for more than thirty days, after such judgment or sentence given, unless such person to whom such restitution or damage is awarded as aforesaid, will pay and satisfy the prison-keeper his charge for keeping such prisoner, both for the time past and future; and if the person to whom such damage or restitution is awarded shall neglect or refuse so to do, the prison-keeper shall discharge the prisoner, and in every such case the prisoner shall pay his own fees and charges, and if he be unable, then any two justices of the peace *quorum unus*, may order and enjoin the prisoner to make satisfaction for the same, by service for such rea-

Thief not to be detained after 30 days for threefold damage.

sonable time as they shall assign; and the prison-keeper may dispose of him in service to any subject of the United States for such time.

SECT. 11. *And be it further enacted*, That if any suit be commenced or prosecuted against the keeper of the prison, for any thing done by him, pursuant to this act, he may plead the general issue, and may give this act and the special matter in evidence, and the keeper in case the prosecutor become nonsuit, or verdict pass against the prosecutor, shall recover double costs.

Plaintiff or
endorser lia-
ble for pris-
on charges.

SECT. 12. *And be it further enacted*, That the plaintiff in every civil action, in case he be an inhabitant of this state, and of sufficient ability, otherwise the endorser of the original writ shall pay to the prison-keeper his legal demand for prison charges, of any prisoner committed on mesne process, in case the prisoner be unable to pay the same, for so long time as such prisoner shall have been held in prison upon such process, no further prosecution being had thereon to a judgment in law. *Passed February 10, 1791.*

Passed Feb.
14, 1791.

AN ACT to enable the Justices of the Inferior Court of Common Pleas to fix and determine the Boundaries of the Gaol-Yards in their respective Counties.

Justices of
common pleas
to limit the
gaol yards.

BE it enacted by the senate and house of representatives, in general court convened, That the justices of the inferior court of common pleas, shall, as soon as may be after the publication of this act, fix and determine the boundaries of the gaol-yards appertaining to the several gaols in their respective counties, and extend the bounds and limits of the several gaol-yards, as far as the local situation of the gaols, and the convenience and accommodation of the prisoners require; provided said yards shall not in any case extend more than two hundred rods each way from said gaols, and at all times that the determination of the inferior court be subject to the control of the justices of the superior court of judicature. *Passed February 14, 1791.*

Passed Dec.
6, 1808.

AN ACT to extend the limits of the Prison-Yard in the county of Coos.

BE it enacted by the senate and house of representatives, in general court convened, That the justices of the court of common pleas for said county of Coos are hereby authorized to extend the limits of said prison-yard one hundred rods in every direction from the limits now established by said court.

Provided however, That said limits shall in no wise extend on to the waters of Connecticut river; any law to the contrary notwithstanding. *Approved December 6, 1808.*

AN ACT for the Ease and Relief of persons Imprisoned for Debt.

Passed Feb. 15, 1791.
[Sept. 15, 1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That any person imprisoned on mesne process in any civil action, or upon execution founded on a proper action of debt, covenant, contract or promise, shall be permitted and allowed to have a chamber and lodging in any of the houses or apartments belonging to such prison, and liberty of the yard thereto belonging; but not to pass without the limits of the prison yard, upon reasonable payment to be made for chamber room to the prison-keeper, not exceeding one shilling per week, such prisoner giving bond to the creditor with two sufficient sureties, being free-holders in this state, to be bound jointly and severally in double the sum for which such prisoner is imprisoned, with condition in the same bond underwritten, in the form following, namely, "the condition of the above obligation is such, that if the above bounden—now prisoner in the gaol in——at the suit of——do and shall from henceforth continue a true prisoner in the custody, guard, and safe keeping of——keeper of the said prison, or in the custody, guard and safe keeping of his deputy, officer, steward, or some one of them within the limits of said prison, as by law established, until he shall be lawfully discharged, without committing any escape until such discharge; then this obligation to be void, or else to abide in full force and virtue:" and the blanks in said condition shall be filled up as the respective cases may require. And if the sureties be not approved by the creditor, his agent or attorney, who prosecutes, or who prosecuted the said action, then any two justices of the superior court, court of common pleas, or a justice of the superior court, with a justice of the court of common pleas, or either of said justices, with a justice of the peace, who are disinterested, approving thereof and certifying such their approbation on the back of said bond, shall be deemed sufficient; and shall remain with the sheriff or gaol-keeper till the creditor demand the same, when it shall be given up to him, and the sheriff or gaol-keeper shall not be liable to any action, for any escape of any such prisoner after the executing of such bond. And on condition broken, the said creditor may put the said bond in suit, and shall be entitled to recover his just debt, damages and costs for which such prisoner was committed, together with prison charges, and shall be allowed ten per cent. interest from the time of commitment, and the said court shall chancer the said bond accordingly. *Provided, always,* That when any person shall be committed on mesne process or execution, founded on any such prison bond, he shall remain in close gaol or prison in the same manner as though this act had not been made. And on all execu-

Prisoners on mesne process, or for debt to have liberty of the yard.

Giving bond.

See act of 23 June 1814, sect. 2, p. 160.

See act of 30 Nov. 1803. p. 156.

tions issuing on any prison bond, a minute that such execution issues on a prison bond, shall be made on the back thereof for the direction of the gaol-keeper.

Prisoners for
debt admitted
to their
oath.

See p. 159

SECT. 2. *And be it further enacted*, That when any person committed on execution recovered on proper action of debt, covenant, contract or promise, shall not have at the time of his commitment, or at any time afterwards, estate to the value of ten pounds, such person may, at the expiration of thirty days from the time of commitment, apply to any two justices of the superior court of judicature, or any two justices of the court of common pleas, in the county where any such person is committed, or one of the justices of said superior court, and one of the justices of said court of common pleas, or to either of said courts while sitting in the same town where such prisoner is committed, and pray to be admitted to take the oath herein after prescribed. And such court or justices applied to shall notify in writing the creditor, if within this state, or the attorney who appeared in the cause, in case the creditor live more than forty miles from the prison, or out of the state, or in case of the creditor's living out of this state, his agent or factor, of the application made to them as aforesaid, and of the time when and place where they will attend to administer the oath prescribed, to such debtor; giving reasonable time for attendance of the party notified, and such notice being given or left in writing at the place of abode of the party so to be notified, a reasonable time before the time ordered for such caption, if the creditor can make it appear to the satisfaction of said justices, that the prisoner hath practised fraud, deceit or falsehood in the management of his estate, real or personal, to take advantage of this act, he shall not be admitted to swear, but if no sufficient objection is made by the creditor or some other person, the said justices shall administer the following oath to the debtor, namely:

See act 16
June 1807,
to exempt
certain goods,
&c. substitut-
ing another
form of oath.
p. 157.

I solemnly swear, that I am not the owner of any real or personal estate, either in possession, remainder or reversion, or in possession of any person or persons for me, of the value of ten pounds lawful money, exclusive of one necessary suit of apparel, at any just and reasonable valuation, nor have I since the commencement of the action, whereon the execution by virtue of which I am imprisoned issued, any way embezzled, destroyed, concealed or transferred any such estate, with a view of defrauding any of my creditors, or changed possession of the same for that purpose, or for any advantage to myself, or any depending on me for support, nor any way done any thing like it, either directly or indirectly. And, I also add, that I have not at any time, with a view and design of injuring, defrauding or delaying payment of my debts, done any of the matters or things herein before mentioned, by any way or means whatever.

So help me GOD.

Which oath shall be repeated by the person who takes it. And the justices administering said oath shall certify their proceedings to the keeper of the gaol in the following manner, namely,

ss. To keeper
of the gaol at on the day of
at A. R. a prisoner in your custody for debt, at
the suit of C. D. of, &c. took the oath prescribed in an act,
for the ease and relief of persons imprisoned for debt, the
said C. D. having been duly notified (*did or did not at-*
tend) and in our opinion the said A. R. ought to be dis-
charged.

E. F. }
H. I. } Addition.

And thereupon the said debtor satisfying the prison-keeper for past charges, shall be discharged, unless the creditor or some person for him pay the prison-keeper weekly, five shillings lawful money per week, for the support and maintenance of such debtor, and on default or neglect of paying for one week, or satisfying the prison-keeper therefor, the prison-keeper shall discharge the prisoner.*

See act of 15
Dec. 1796.
p. 156.

SECT. 3. *And be it further enacted*, That all and every judgment obtained against any such prisoner, shall notwithstanding such discharge as aforesaid, be and remain good and effectual in law, to all intents and purposes against any estate whatsoever, which may then, or at any time afterwards belong unto any such prisoner, and a new execution may issue at any time against the goods, chattels, lands and tenements of such prisoner, in the same way and manner, as might have been done if the prisoner had never been in execution; and the said debtor's estate shall also be liable to pay prison charges during all the time of his imprisonment.

their estates
liable not-
withstanding
their dis-
charge from
prison.

Passed February 15, 1791.

* See act of 16th of June 1807, repealing this clause, and the act of 13th December 1796.



AN ACT in addition of an act, entitled, "An act for the ease and relief of prisoners† imprisoned for debt," passed February fifteenth, one thousand seven hundred and ninety-one.

Passed June
13, 1796

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That when any person now committed, or who hereafter may be committed to prison upon any writ of execution issued upon a judgment rendered upon any plea of the case, trespass, ejectment, trover or trespass on the case, shall have remained a prisoner for and during the term of thirty days, the justices of the superior court of judicature, or courts of common pleas in each county respectively, upon petition of the prisoner, and

Prisoners
may be admit-
ted to their
oath.

† Prisoners in original by mistake for Persons.

notice given to the creditor, as in and by said act is required in other cases, may, if in their opinion the publick good will admit of it, administer the same oath, and extend the same benefits and privileges to said prisoners, as in and by said act is extended to prisoners for debt. And the said creditors shall have like remedy against any estate of said prisoners so liberated, as in and by said act is prescribed in other cases.

SECT. 2. *And be it further enacted*, That when in the opinion of either of the courts aforesaid, upon examination had in the county where such prisoner is, or may be committed, the publick good will not admit of the liberating or enlargement of such prisoner, and such prisoner may be unable to pay his prison charges, that then and in every such case the county where such prisoner may be committed, shall be liable to pay the same, and the courts of common pleas in each county respectively, are hereby empowered to examine all such accounts for prison charges, and allow so much as to them may appear just, not exceeding one dollar per week, and to raise the same as other county taxes are raised.

County liable
to pay prison
charges in
certain cases.

Approved June 13, 1796.

Passed Dec. 13, 1796. *AN ACT in addition to an act, entitled, "An act for the ease and relief of persons imprisoned for debt," passed February, one thousand seven hundred and ninety-one.*

BE it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, any debtor who shall take the oath prescribed in said act, shall be discharged, unless the creditor, or some other person for him pay the prison-keeper weekly one dollar and twelve cents per week for the support and maintenance of such debtor, any law to the contrary notwithstanding.

Debtors to be
discharged
unless.
see p. 158,
sect. 3.

Approved December 13, 1796.

Passed Nov. 30, 1803. *AN ACT in addition to an act, entitled, "An act for the ease and relief of persons imprisoned for debt."*

BE it enacted by the senate and house of representatives, in general court convened, That when any creditor, his agent or attorney, shall demand of any sheriff or prison-keeper, within this state, any prison-bond or bonds, it shall be the duty of the person so demanding, on receiving any prison-bond or bonds, to lodge with said sheriff or prison-keeper, a receipt, or memorandum, in writing, purporting, that he has received the same; and no sheriff, or prison-keeper, shall be compelled to give up any prison-bond, to any creditor, his agent or attorney, unless he or they will give a receipt or memorandum as aforesaid.

Receipt to be
lodged with
the sheriff.

Approved November 30, 1803.

AN ACT to exempt certain goods and chattels of debtors from attachment and execution. Passed June 16, 1807.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That from and after the first day of January next, the wearing apparel necessary for immediate use, one comfortable bed, bedstead and bedding necessary for the same, the bibles and school books in actual family use, together with one cow, and one swine, or in case the debtor be a mechanic, tools of his occupation to the value of twenty dollars in lieu of said cow, shall be altogether exempted from attachment and execution, and no civil officer shall attach, levy upon or take the same or any part thereof either upon mesne process or execution.

Articles exempted.
see p. 159.

SECT. 2. *And be it further enacted,* That no debtor or debtors owning any of the goods and chattels exempted as aforesaid, shall hereby be precluded from the benefit of an act passed the fifteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, entitled, “an act for the ease and relief of persons imprisoned for debt,” and instead of the oath thereby prescribed to be taken, whenever the justices thereby authorized to administer an oath or affirmation shall think proper to administer the same, there shall be taken an oath or affirmation in form following, to wit:

I, A. B. do solemnly swear before Almighty God, (or affirm as the case may be) that I have not any estate, real nor personal in possession, reversion, nor remainder to the amount of twenty dollars, excepting the goods and chattels exempted from attachment and execution by “an act entitled an act to exempt certain goods and chattels of debtors from attachment and execution,” and that I have not since the commencement of this suit against me, nor at any other time, directly or indirectly sold, leased nor otherwise conveyed, nor disposed of to, nor intrusted any person or persons whomsoever with, all nor any part of the estate real nor personal, whereof I have been the lawful owner or possessor with any intent or design to secure the same, or to receive or to expect any profit or advantage therefor, nor have caused nor suffered to be done, any thing else whatsoever, whereby any of my creditors may be defrauded; So help me **GOD**, (or this I do under the pains and penalties of perjury, as the case may be.) Which oath or affirmation may be administered by a justice of the superior court of judicature, and a justice of the quorum, or by a justice of the court of common pleas, and a justice of the quorum in the county where the debtor may be imprisoned.

Oath to be administered to prisoners for debt.

By whom administered.

Repealing
clause.

SECT. 3. *And be it further enacted*, That so much of said act, passed the fifteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, as is in the words following, to wit: "Unless the creditor, or some person for him, pay the prison-keeper weekly, five shillings lawful money per week, for the support and maintenance of such debtors,* and on default or neglect of paying for one week, or satisfying the prison-keeper therefor, the prison-keeper shall discharge the prisoner; and also, an act passed the thirteenth day of December, one thousand seven hundred and ninety-six, entitled "an act, in addition to an act, entitled an act, for the ease and relief of persons imprisoned for debt," passed February, one thousand seven hundred and ninety-one, be, and the same hereby are repealed—Provided, that no such debtor shall be admitted to the oath aforesaid, unless he shall have given notice to the creditor or creditors, who committed him to prison, or their agent or attorney, of the time and place, when and where such oath will be administered, fifteen days previous to taking said oath.

Proviso.

Application
for said oath
may be made
fifteen days
after commit-
ment.
p. 153.

SECT. 4. *And be it further enacted*, That said debtor may, at the expiration of fifteen days from the time of his commitment, apply to have said oath administered to him, in the same manner as is provided by the second section of an act passed September 15th, 1792, entitled, "An act for the ease and relief of persons imprisoned for debt."

Costs in cer-
tain cases al-
lowed the
creditor.

SECT. 5. *And be it further enacted*, That in all cases, when any debtor or debtors shall make application as aforesaid, to be admitted to the benefit of the oath in this act prescribed, and the application shall not prevail, either in consequence of the applicant's withdrawing his application without a division of the justices applied to, or upon a decision of said justices, it shall be the duty of said justices, if they think it reasonable, to tax cost for the creditor or petitioner for the travel and attendance of himself, his witnesses, and for his depositions in the same way and manner as cost is taxed for parties to suits in the superior court of judicature, and render judgment in favour of said creditor for the same, and issue execution in due form of law accordingly. And no justices shall be authorized to sustain any after application or petition of any debtor imprisoned as aforesaid, until the cost which may have arisen and been taxed and allowed on all former applications shall have been fully paid.

No after ap-
plication to
be sustained,
until, &c.

Approved June 16, 1807.

* *Debtor* in the act from which this was taken.

AN ACT in addition to an act, entitled, "An act to exempt certain goods and chattels of debtors from attachment and execution," approved June 16th, 1807.

Passed June 21, 1811.

BE it enacted by the senate and house of representatives, in general court convened, That in addition to the goods and chattels named in the first section of said act, six sheep be exempted from attachment and execution, and their fleeces while in possession of the owner or owners of said sheep, in the same way and manner that said goods and chattels of debtors particularly mentioned in said section as aforesaid, are exempted from attachment and execution by said act. *Provided, nevertheless, That this act shall not be in force until the first day of January next.*

Six sheep exempted from attachment and execution.

When to take effect.

Approved June 21, 1811.

AN ACT in addition to an act, entitled, "An act for the Ease and Relief of persons imprisoned for Debt."

Passed Dec. 23, 1808.

BE it enacted by the senate and house of representatives, in general court convened, That when any person, arrested upon mesne process, be committed to any prison within this state, and remain in said prison for the term of thirty days after the rendition of judgment, if the creditor shall neglect or refuse to levy his execution on the body of the debtor thus imprisoned, within the term aforesaid, then and in every such case the body of the debtor shall not be liable to be arrested upon any action of debt on said judgment, at any time within one year from the rendition thereof; any law, usage or custom to the contrary notwithstanding.

Approved December 23, 1808.

AN ACT authorizing two justices of the peace, of the quorum, to administer the oath, or affirmation, to persons imprisoned for debt, and to approve of bonds by them given.

Passed June 23, 1814.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, any two justices of the peace, of the quorum, within and for the county in which they reside, shall hereby have power, and be fully authorized, in the same way and manner as the justices of the supreme judicial court, or justices of the circuit court of common pleas, with a justice of the quorum, now are, to administer the oath or affirmation to any person imprisoned by virtue of any writ of execution issued upon any judgment rendered upon any plea of the case, debt, covenant, trespass, ejectment, trover, or trespass on the case, at any of the gaols within this state.

Two justices, of the quorum, may administer oaths to debtors.

May approve
bonds.

SECT. 2. *And be it further enacted*, That if the surety or sureties of any bond given by any prisoner committed on any judgment rendered as aforesaid, agreeably to the laws of this state, be not approved by the creditor, his agent or attorney, who prosecutes, or who prosecuted the suit, any two justices of the peace, of the quorum, within and for the county where such prisoner shall be so committed, may approve the same in the same way and manner as the justices of the supreme judicial court, or justices of the circuit court of common pleas, with a justice of the peace, are now by law authorized to do.

Repeal.
See this act
in the appen-
dix.

SECT. 3. *And be it further enacted*, That an act, entitled, "an act authorizing two justices of the peace, of the quorum, to administer the oath or affirmation to persons imprisoned for debt, and to approve of bonds by them given," approved June 24, 1813, be, and the same hereby is, repealed.
Approved June 23, 1814.



Passed June
10, 1791.

[Sept. 15,
1792.]

Coroners to
be sworn and
to give bonds,

AN ACT regulating the office of Coroner.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That every coroner before he enters upon the duties of his office, shall be sworn to the faithful discharge thereof, and shall give security in the same manner as sheriffs by law are obliged to do.

to take in-
quests,

SECT. 2. *And be it further enacted*, That it shall be the duty of the coroner to take inquests of the violent deaths committed, or casual deaths happening within the county for which he is commissioned.

serve writs.

SECT. 3. *And be it further enacted*, That it shall be the duty of the coroner, and he hereby is empowered to serve and execute all writs and processes directed unto him when the sheriff is a party; and the coroner shall return jurors *de talibus circumstantibus* where the sheriff is a party interested, or related to either party, and in all such causes the coroner shall attend the jury, and shall have for all services enjoined on him in this section, the same fees by law allowed to the sheriff for similar services.

Mode of tak-
ing an in-
quest.

SECT. 4. *And be it further enacted*, That when any coroner shall be certified of the dead body of any person supposed to have come to his death by violence or casualty, found or lying within his county, he shall cause a jury of inquest to be summoned to appear before him at a certain time and place, to inquire how and in what manner the person so found dead, came to his death.

And the number of jurors to be summoned shall be eighteen in all, and they shall have the qualifications of petit jurors attending the courts of common law, and shall be inhabitants of the town or place where the dead body is found, or of that and the adjacent towns as the coroner may order.

And the warrant or warrants for summoning them shall be directed to a constable of the town or place from which such jurors are to be summoned, and in such warrant shall be specified the number of jurors to be summoned in such town or place : and the constable to whom any such warrant is directed and delivered, is hereby empowered and directed forthwith to execute the same, and to repair to the place where the dead body is, at the time mentioned, and make return of the warrant, with his doings thereon, unto the coroner who issued the same.

And twelve or more of the jurors returned shall be sworn in view of the body, and the coroner shall give them a charge upon their oaths, to declare of the death of the person, whether he died of felony, or of mischance, or accident ; and if of felony, whether of his own or of another ; and if of the felony of another, who were principals, and who were accessaries ; with what instrument he was struck or wounded, and so of all prevailing circumstances that may come by presumption ; and if he died of his own felony, then to inquire of the manner, means or instrument, and of all circumstances concerning it ; and if he died by mischance or accident, whether by the act of man, and whether by hurt, fall, stroke, drowning or otherwise ; to inquire of the persons who were present, the finders of the body, his relations and neighbours, whether he was killed in the same place where he was found, and if elsewhere, by whom and how he was brought from thence, and of all circumstances relating to the said death.

And the jury being charged, shall stand together ; and the coroner shall cause proclamation to be made for all persons, who can give evidence how, and in what manner the person, then and there lying dead, came to his death, to draw near and they shall be heard.

And every coroner is further empowered to summon, and if necessary to grant compulsory process for the appearance of witnesses, and to administer an oath to such witnesses ; and the testimony of such witnesses shall be drawn up in writing and subscribed by them, and if the testimony of any witness or witnesses charge any person with killing, or of being in any way instrumental to the death of the person so found dead, the coroner shall bind such witnesses by recognizance, in a reasonable sum, for their personal appearance at the next superior court of judicature, to be holden within and for the same county, there to give evidence accordingly ; and if any such witness shall refuse to recognize as aforesaid, the coroner shall and may commit such witness to the common gaol of the county.

And the jury having viewed the body, heard the evidence, and made all the inquiry within their power, they shall draw up and deliver unto the coroner their verdict up-

on the death under consideration, in writing under their hands, and the coroner shall set his hand and seal thereto.

And the coroner shall return to the next superior court of judicature holden in the same county, the inquisition, written evidence and recognizance (if any) by him taken.

Penalty on constable.

SECT. 5. *And be it further enacted*, That if any constable shall unnecessarily fail of executing any warrant directed and delivered to him as aforesaid, or of returning the same as aforesaid, he shall forfeit the sum of forty shillings.

Penalty on jurors.

And every person summoned as a juror as aforesaid, that shall without reasonable excuse therefor, fail of appearance, he shall forfeit the sum of forty shillings. And the forfeitures aforesaid shall be recovered by action of debt, before any justice of the peace in the county where the same shall accrue, and shall be one half to the use of the prosecutor, and the other half to the use of the county.

Coroner to notify a justice.

SECT. 6. *And be it further enacted*, That upon an inquisition found before any coroner, of the death of any person by the felony or misfortune of another, he shall speedily inform one or more of the justices of the same county thereof, to the intent that the person killing, or being any way instrumental to the death, may be apprehended, examined and secured in order for trial.

Forms of process.

SECT. 7. *And be it further enacted*, That the following forms shall be used in the cases to which they apply.

***** *Warrant for Summoning the Jury of Inquest.*
 * L. S. *
 * R ss. } *To either of the constables of L*
 ***** *in said county of R*

Greeting.

In the name of the State of New-Hampshire, you are hereby required to summon good and lawful men of said to appear before me one of the coroners of R at the dwelling house of (or at a place called) within the said town of L on at of the clock in the noon, then and there to inquire upon a view of the body of there lying dead, how and in what manner he came to his death. Fail not herein at your peril. Given under my hand and seal at L in said county the day of A. D.

A. B.—

Form of the Oath to be administered to the Jurors.

You solemnly swear, that you will diligently inquire, and due presentment make, in behalf of this state, how, and in what manner who lies here dead, came to his death; and that you will deliver up to me one of the coroners of this county, a true inquest thereof, according to such evidence as shall be laid before you, and according to your knowledge. So help you GOD.

You solemnly swear, that the testimony which you shall give to this inquest, concerning the death of _____ here lying dead, shall be the whole truth, and nothing but the truth. *So help you GOD.*

State of New-Hampshire, } An inquisition taken at L
R ss. } within the said county of R
the day of in the year of our Lord before
A. B. gentleman, one of the coroners of the said county of
R upon the view of the body of there lying dead,
by the oaths of good and lawful men, who being sworn
and charged to inquire for the said state, when, how, and
by what means the said came to his death, upon their
oaths, do say (then insert how, where, when and by what
means, with what instrument he was killed, and if it ap-
pears that he was murdered by a person known, then the
inquisition shall be concluded thus) “and so the jurors
“ aforesaid, upon their oaths aforesaid, do say, that the said
“ in manner and form aforesaid the aforesaid
“ then and there of his malice aforethought, did kill and mur-
“ der, against the peace and dignity of this state, and the
“ laws of the same.”

“ And so the jurors aforesaid, upon their oaths aforesaid,
“ do say, that the said in manner and form aforesaid,
“ then and there voluntarily, and feloniously, as a felon of
“ himself, did kill and murder himself, against the peace and
“ dignity of said state.”

“And so the jurors aforesaid, upon their oaths aforesaid,
“do say, that the said in manner aforesaid, came to his
“death by misfortune.”

The jurors aforesaid, upon their oaths aforesaid, say that the aforesaid D. H. the aforesaid _____ by misfortune and contrary to the will of the said D. H. in manner and form aforesaid, did kill and slay.

N. O. &c.

A. B. Seal.

Passed June 10, 1791.

Passed June
16, 1791.
[Sept. 15,
1792.]

AN ACT for the limitation of actions, and for the preventing of vexatious suits.

Real actions.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That no person shall hereafter sue or maintain any writ of right, or make any prescription, title or claim to any lands, tenements or hereditaments, or to any rents, annuities or portions issuing therefrom, upon the possession or seizin of his or their ancestor, or predecessor beyond the term of sixty years, next before the test of the same writ.

Possessory actions.

And no person shall sue, have or maintain any writ of entry upon disseizin done to any of his ancestors or predecessors; or any action possessory upon the possession of any of his ancestors or predecessors for any lands, tenements or hereditaments, unless the ancestor or predecessor under whom the demandant* shall claim, should have been seized or possessed of the lands, tenements or hereditaments demanded within fifty years next before the test of the same writ, or bringing such action.

And no person, or body corporate, or politick, shall sue for, have or maintain any action for any lands, tenements, or hereditaments, upon his or their own seizin or possession therein, above thirty years next before the test of the same writ.

Writs of formedon, &c.

SECT. 2. *And be it further enacted,* That all writs of formedon in descender, remainder and reverter of any lands, tenements and hereditaments whatsoever, hereafter to be sued and brought, shall be commenced within twenty years next after the title or cause of action, first descended, and at no time after the said twenty years. And no person shall at any time hereafter, unless by judgment of law, make any entry into any lands, tenements or hereditaments, but within twenty years next after his right or title first descended or accrued to the same; and in default thereof, such person so not entering, and his heirs, shall be utterly excluded from making such entry thereinto.

Provided always, That when any person that is or shall be entitled to any of the writs of formedon aforesaid, or to make an entry into any lands, tenements or hereditaments, shall at the time the said right or title first accrued, descended or fell, be within the age of twenty-one years, feme covert, non compos mentis, imprisoned, or beyond seas, or without the limits of the United States, that then such person shall or may bring such suit, or make such entry at any time within ten years after the said twenty years aforesaid shall have expired, and not afterwards.

Personal actions.

SECT. 3. *And be it further enacted,* That all actions of trespass quare clausum fregit, all actions of trespass, detinue, trover, or replevin for goods or cattle, all actions of account,

* In the original *demandants*.

and upon the case, other than such as concern the trade of merchandize between merchant and merchant, their factors and servants, all actions of debt grounded upon any lending or contract without specialty, all actions of debt for arrearages of rent, and all actions of assault, menace, battery, wounding and imprisonment, or any of them which shall be sued or brought after the first day of July next, shall be commenced and sued within the time hereafter limited, and not afterwards, to wit, the actions of account, and actions of debt, and actions upon the case, other than for slander, and said actions of trespass, detinue and replevin for cattle and goods, and said actions of trespass quare clausum fregit, within six years from the first day of said July, in the year of our Lord one thousand seven hundred and ninety-one, or within six years next after the cause of such actions or suits, and not after. And the said actions of trespass, of assault, battery, wounding, imprisonment, or any of them, within three years next after the said first day of July, or within three years next after the cause of such actions or suits, and not afterwards; and the said actions upon the case for words within two years next after the said first day of July, or within two years next after the words spoken and not afterwards.

Provided always, That if upon any of the said actions or suits, judgment be given for the plaintiff, and the same be reversed by writ of error, or a verdict pass for the plaintiff, and for matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing for his plaint, writ or bill, that in all such cases the plaintiff, his executor or administrator, as the case shall require, may commence a new action or suit, from time to time within a year after such judgment reversed, or such judgment given against the plaintiff, and not after.

Judgment reversed or arrested.

SECT. 4. *And be it further enacted*, That this act shall not extend to bar any infant, feme covert, person imprisoned or beyond seas, without any of the United States, or non compos mentis, from bringing either of the actions before mentioned, within the term before set and limited for bringing such actions, reckoning from the time such impediment shall be removed.

Saving.

And if any person against whom there is, or hereafter may be any cause of suit for any and every the species of personal actions before enumerated, who at the time the same accrued was without the limits of the state, and did not leave property or estate therein, that could by the common and ordinary process of law be attached, that then and in such case the person that is entitled to bring such suit or action, shall be at liberty to commence the same within the respective periods before limited, after such persons return into this state.

SECT. 5. *And be it further enacted*, That no judgment in any real or personal action, shall, from and after the first

Writs of error.

day of July next, be reversed, or avoided for any error or defect therein, unless the writ of error or suit for the reversing such judgment be commenced, or brought and prosecuted with effect, within three years after such judgment entered of record; saving unto any infant, feme covert, person non compos mentis, person in prison, or beyond sea, the right of bringing any writ of error or suit for the reversing any judgment at any time within three years after such judgment rendered, or within five years after such impediment shall be removed.

Court to allow no more costs than damages in certain cases.

SECT. 6. *And be it further enacted*, That in all actions of the case for slanderous words, all actions of assault and battery, all actions for imprisonment, all actions for malicious prosecutions hereafter prosecuted in any of the courts of record in this state, if the jury that inquire of the damages do find or assess the damages under forty shillings; then the plaintiff or plaintiffs in any such action shall have and recover only so much costs as the damages so found and assessed amount unto without any further increase of the same. And in all actions of trespass quare clausum fregit, where the title of real estate is not in question, if the damage found or assessed by the jury do not amount to forty shillings, the court may if they think proper, allow only such sum in costs as they shall think proper, not exceeding the damages assessed by the jury. And in all other actions commenced at the court of common pleas, if it shall appear to the justices of the said court, or to the justices of the superior court in case of appeal, that the plaintiff or plaintiffs had no reasonable expectation of recovering more than forty shillings damages in such suit; the justices of said court may limit the plaintiff or plaintiffs in their costs to such sum as they may think just and reasonable, all circumstances duly considered.

Passed June 16, 1791.

Passed Dec. 6, 1796.

AN ACT to ascertain and determine the time when an act, entitled, "An act for the limitation of actions, and preventing of vexatious suits," passed June 16, 1791, took effect.

WHEREAS doubts have arisen respecting the time when said act took effect; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That said act shall not be considered as having taken effect until the fifteenth day of September, in the year one thousand seven hundred and ninety-two; any particular expression in the aforesaid act to the contrary notwithstanding.

Approved December 6, 1796.

AN ACT suspending in certain cases the operation of an act, entitled, “An act for the limitation of actions and preventing vexatious suits,” passed the sixteenth day of June, one thousand seven hundred and ninety-one. Passed June 20, 1797.

WHEREAS the following acts have been found insufficient for the purposes thereby intended, *viz.*

An act passed the seventeenth day of June, one thousand seven hundred and ninety-one, entitled, “an act suspending the operation of sundry acts therein enumerated and referred to, until a certain period.”

An act passed the twentieth day of June, one thousand seven hundred and* ninety-two, entitled, “an act in further addition to an act, passed the seventeenth day of June, one thousand seven hundred and ninety-one, entitled, “an act suspending the operation of sundry acts therein enumerated and referred to, until a certain period ; “an act passed the sixth day of December, one thousand seven hundred and ninety-six, entitled, “an act to ascertain and determine the time when an act, entitled, “an act for the limitation of actions and preventing of vexatious suits,” passed the sixteenth day of June, one thousand seven hundred and ninety-one, took effect ;

Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That said recited act passed the seventeenth day of June, one thousand seven hundred and ninety-one, as far as it relates to the act, entitled, “an act for the limitation of actions and preventing of vexatious suits,” also said other enumerated acts, passed the twentieth day of June, one thousand seven hundred and ninety-two, and the sixth day of December, one thousand seven hundred and ninety-six, be, and they hereby are repealed. Repealing clause.

SECT. 2. *And be it further enacted,* That the several periods, specified in said act for the limitation of actions and preventing of vexatious suits, shall be computed from the fifteenth day of September, one thousand seven hundred and ninety-two, instead of from the first day of July, one thousand seven hundred and ninety-one, as expressed in said act. Time of limitations computed from

Provided, nevertheless, That this act shall not be construed to affect any judgment or decision of any court heretofore had by virtue of said acts before enumerated. Proviso

Approved June 20, 1797.

* In several places in the original *and* is omitted before *ninet*

Passed June 18, 1798. *AN ACT suspending in certain cases the operation of an act, entitled, "An act for the limitation of actions, and for preventing of vexatious suits," passed the sixteenth day of June, one thousand seven hundred and ninety-one.*

BE it enacted by the senate and house of representatives, in general court convened, That the several periods specified in said act shall be computed from the fifteenth day of September, one thousand seven hundred and ninety-three, instead of from the first day of July, one thousand seven hundred and ninety-one, as expressed in said act.

Provided, nevertheless, That this act shall not be construed to affect any judgment or decision of any court heretofore rendered by virtue of said act.

Approved June 18, 1798.

Passed June 14, 1799. *AN ACT suspending in certain cases the operation of an act, entitled, "An act for the limitation of actions, and for preventing of vexatious suits," passed the sixteenth day of June, one thousand seven hundred and ninety-one.*

Suspension. **BE** it enacted by the senate and house of representatives, in general court convened, That the several periods specified in said act, shall be computed from the first day of April, one thousand seven hundred and ninety-four, instead of, from the first day of July, one thousand seven hundred and ninety-one, as expressed in said act.

Provided, nevertheless, That this act shall not be construed to affect any judgment or decision of any court heretofore rendered by virtue of said act.

Approved June 14, 1799.

Passed Dec. 30, 1799. *AN ACT in addition to, and amendment of an act, entitled, "An act for the limitation of actions and for preventing of vexatious suits," passed the sixteenth day of June, A. D. 1791.*

Notes secured by mortgage. **SECT. 1.** **BE** it enacted by the senate and house of representatives, in general court convened, That the aforesaid act shall not extend to bar any action hereafter brought upon any note in writing, made and signed by any person or persons for securing the payment of which a mortgage has been, or shall be given; nor shall it extend to bar any action brought by any mortgagee against the mortgagor upon a mortgage where no note is given; but that the same shall remain as though said act had never been made.

SECT. 2. *And be it further enacted,* That the act aforesaid shall not extend to bar any action hereafter brought upon any contract therein mentioned, by any executor or administrator until the expiration of two years from the time of proving the will, or taking out letters of administration, provided the testator or intestate had cause of action at the time of his or her decease; nor shall said act be construed to bar any action hereafter brought against any executor or administrator, until the expiration of two years from the time of proving the will, or taking letters of administration, provided the testator or intestate was liable to an action at the time of his or her decease, any thing in said act to the contrary notwithstanding.

Actions by and against executors, &c.

Approved December 30, 1799.

IN ACT in addition to an act, entitled, "An act for the limitation of actions and for preventing vexatious suits, made and passed the sixteenth day of June, A. D. 1791."

Passed June 19, 1805.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, no person or persons, body corporate or politick, shall make any entry into any lands, tenements or hereditaments, or shall make any prescription, title or claim thereto, or to any rents, annuities or portions issuing therefrom, or shall sue or maintain any action for the recovery or obtaining possession thereof, unless such person or persons, body corporate or politick, or the person or persons under whom they respectively claim, have been seized or possessed thereof within twenty years next before the making such entry or commencement of such suit, and in default thereof, such person or persons, body corporate or politick, their heirs and successors, shall forever after be excluded from making such entry, or from suing or maintaining an action for the recovery thereof.

Real actions to be commenced within twenty years.

SECT. 2. *And be it further enacted,* That all writs of formedon in descender, remainder, and reverter of any lands, tenements and hereditaments hereafter to be sued and brought, shall be commenced within ten years, next after the title or cause of action descended or accrued and no time afterwards: *Provided always,* That when any person is or shall be entitled to any writs of formedon aforesaid, or to make any entry into any lands, tenements and hereditaments, or to bring any action or suit for the recovery thereof, or for the recovery of any rents, annuities or portions issuing therefrom, shall at the time of said right or title first descended or accrued to them, be within the age of twenty-one years, feme covert, non compos mentis, imprisoned or without the limits

Writs of formedon, &c. to be commenced in ten years.

Saving clause.

Actions brought in five years after impediment removed.

of the United States, then such person or persons, he or they shall or may notwithstanding the expiration of said term, make entry into, or bring his or their action for the recovery thereof, at any time within five years next after he or they shall attain to their full age, be discoverd, become of sound mind, be enlargd from prison or return into the United States, and at no time afterwards.

Jury to ascertain value of premises.

No writ of possession to issue until, &c.

SECT. 3. *And be it further enacted*, That when any action shall be brought against any person for the recovery of any lands or tenements, which such person holds by virtue of a supposed legal title under a bona fide purchase, and which the occupant, or person under whom he claims, has been in the actual peaceable possession and improvement of, for more than six years before the commencement of the action, the jury which tries said action, if they find a verdict for the plaintiff, shall also inquire and by their verdict ascertain the increased value of the premises by virtue of the buildings and improvements made by such person or persons, or those under whom he or they claim, and no writ of seizin or possession shall issue upon such judgment, until such plaintiff shall have paid into the hands of the clerk of said court for the use of the defendant, or person or persons justly entitled thereto, such sum as said jury shall assess as aforesaid, which sum shall be paid to the clerk within one year after the verdict rendered by the jury, otherwise no writ of possession shall issue. *Provided, nevertheless*, That from and after the passing this act, so much of said act as relates to the allowance for the buildings and improvements made on the premises, by the person holding by virtue of a supposed legal title as aforesaid, shall be in full force, any thing in this act to the contrary notwithstanding.

Approved June 19, 1805.

Passed June 22, 1814.

AN ACT in addition to, and in amendment of, an act, entitled, "An act, in addition to, and in amendment of, an act, entitled, an act for the limitation of actions, and for preventing of vexatious suits, passed the 16th day of June, A. D. 1791."

No will to be proved in solemn form after six years,

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened*, That from and after the passing of this act, no hearing for the probate of any will in solemn form shall be granted, had, or sustained, by or before any probate court in this state, unless petitioned for within six years next after the probate of said will in common form.

Saving.

SECT. 2. *And be it further enacted*, That this act shall not be understood to bar any infant, feme covert, person imprisoned, or beyond sea without the United States, or non compos mentis, from petitioning any court of probate in this

state for a new hearing relative to the probate of any will as aforesaid, within the term of two years, reckoning from the time that such inability shall be removed.

Approved June 22, 1814.

AN ACT limiting Suits on Penal Statutes.

Passed Jan
26, 1790.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That all actions, suits, bills, or informations which shall hereafter be had, brought, sued or commenced for any forfeiture upon any penal statute made, or to be made, the benefit whereof is or shall be by the said statute limited in whole or in part to the person or persons who shall inform and prosecute in that behalf, shall be had, brought, sued or commenced by any person that may lawfully pursue the same as aforesaid, within one year from the passing this act, for past offences, and for all offences that shall hereafter be committed, one year from the time of committing them, and not afterwards: And in default of such pursuit, then the same shall be had, brought or prosecuted by the state, at any time within two years next after passing this act, for past offences, and for all offences that may hereafter be committed, two years from the commission of such offences and not afterwards. And any indictment for any offence against such statute as aforesaid, shall hereafter be found and prosecuted within two years limited as aforesaid, and not afterwards, any law, usage or custom to the contrary notwithstanding; excepting in the instances hereinafter mentioned.

Actions to be
brought with-
in one year.

Provided, nevertheless, That when any action, suit, information or indictment for any offence against any penal statute is or shall be limited by such statute to be brought within a shorter time than is abovementioned, the action, suit, information or indictment in every such case, shall be brought within the time limited by such statute.

Provide.

SECT. 2. *And be it further enacted,* That all actions, suits, bills, or informations which may be brought for any offence that shall be committed against the excise laws, shall be had, brought, sued or commenced within two years from the time of committing said offence, and not afterwards. And all actions, suits, bills or informations against any penal statute shall be brought and prosecuted in the county where the offence has been or may be committed and not elsewhere. And in all such actions, suits, bills or informations as aforesaid, the defendant or defendants may plead the general issue, and give any special matter in evidence, which shall be as effectual to all intents and purposes as though the same had been specially pleaded.

Against ex-
cise laws
within two
years from
offence com-
mitted.

Pleadings.

Provided always, That this act shall not extend to any suit grounded on any statute of, or concerning any customs or impost duties.

Passed January 26, 1790.

Passed Feb.
8, 1791.
[Sept. 15,
1792.]

AN ACT for setting off debts, mutual demands and executions against each other.

Mutual demands may be pleaded in off-set or given in evidence.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That where there are mutual debts or demands between the plaintiff and defendant, or if either party sue or be sued as executor or administrator, where there are mutual debts between the testator or intestate and either party, one debt or demand may be set against the other, and such matter may be given in evidence under the general issue, or pleaded in bar, as the nature of the case may require; so as at the time of pleading the general issue, where any debt or demand against the plaintiff or his testator or intestate is intended to be insisted on in evidence, notice shall be given of the particular sum or demand so intended to be given in evidence by way of off-set, and upon what account it became due, or otherwise such matter shall not be allowed to be given in evidence on the general issue; and mutual debts and demands may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, notwithstanding that such debts are deemed in law to be of a different nature, unless in cases where either of the said debts shall accrue by reason of a penalty contained in any bond or specialty, and in all cases where either the debt for which the action hath been brought, or shall be brought, or the debt intended to be set against the same, hath accrued, or shall accrue by reason of any such penalty, the debt intended to be set off shall be pleaded in bar, in which plea shall be shewn how much is truly and justly due on either side, and in case the plaintiff shall recover in any such action or suit, judgment shall be entered for no more than shall appear to be truly and justly due to the plaintiff, after one debt shall have been set against the other as aforesaid.

Provided always, That no demand shall be pleaded by way of off-set, which was not justly due and accruing to the party pleading it at the time of the plaintiff's commencing his suit.

Plaintiff to be served with off-set ten days before it is pleaded.

SECT. 2. *And be it further enacted,* That where the defendant shall plead an account or demand in off-set, unless he shall ten days before the sitting of the court where the same is pleaded, have served the adverse party with a copy of such account, or a particular statement of such demand, the plaintiff shall on motion, be entitled to one continuance of course that he may be prepared to defend against such account or demand: and demands in off-set shall be so particularly described, that the other party may be prepared to defend.

SECT. 3. *And be it further enacted,* That in either of the cases aforesaid, if it shall be found by the jury who try the cause, that there is a balance due to the defendant, judg-

ment shall be rendered for the defendant for such sum, or balance as they shall find due, and legal costs.

Judgment to be rendered for balance.

SECT. 4. *And be it further enacted*, That when any demand shall be plead in bar, or given in evidence, by way of off-set, in any action before a justice in which an off-set is allowed; the justice may, in case he find a balance due to the defendant, give judgment therefor with costs, provided the same exceed not the sum of forty shillings, but in case the balance exceed the sum of forty shillings, he shall give judgment for costs only.

Off-set before a justice.

SECT. 5. *And be it further enacted*, That in all cases where any persons have mutual executions against each other in their own rights, or where any person as executor or administrator hath, or may have an execution against another, who hath or may have in his own right an execution against such executor or administrator, for a debt due from his testator or intestate, or where executors or administrators have execution against each other, for mutual demands between their testators or intestates, the sheriff, at the request of the creditor upon either execution, shall set off one execution against the other, which set-off, if the sums be equal in such mutual executions, shall satisfy them both, and return thereof shall be so made by the sheriff; and where the sum contained in one of said mutual executions is greater than the other, the sheriff upon request as above-said shall set off and deduct the less from the greater, and shall return the execution for the less sum satisfied, and shall proceed to levy the balance on the other execution as directed in the writ, and in all cases where mutual executions shall be set off against each other this special matter shall be returned.

Executions set-off.

Passed February 8, 1791.

AN ACT directing the proceedings against the Trustees of absent or absconding Debtors.

Passed Feb. 12, 1791.
[Sept. 15, 1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That where any person shall have in his possession any money, goods, chattels, rights or credits of any debtor, any creditor may cause such person so having said money, goods, chattels, rights or credits, to be summoned as trustee of such debtor; the summons to be made out in the form in this act prescribed; and in such summons a declaration of the demand against the principal debtor, drawn up with legal certainty, shall be inserted; and the said summons shall be served on the trustee, in the same way and manner, as original summonses in other cases by law are, and ought to be served, and shall also be served on the principal debtor, in the same way and manner, if such principal debtor at the time of serving such

Trustees of debtors to be summoned.

summons on the trustee, be a resident or inhabitant within this state. And in all cases where it shall appear to the court that the service on the trustee was not personal, the return being that a copy of such summons was left at the last and usual place of such trustee's abode, the said court shall order the said cause to be continued, until it shall be made to appear that the said trustee hath had notice, or they may continue such cause, such reasonable time as they shall judge just and equitable, in order that the trustee may have due notice of the suit.

Judgment rendered on default where the trustee doth not appear.

SECT. 2. *And be it further enacted*, That if the said trustee do not appear by himself or attorney, at the term or court to which he is summoned, or at such after term to which the same cause may be continued, on account of such trustee, his default shall be recorded; and the charge of his having in his hands or possession, goods, chattels, rights or credits of the principal debtor, to the amount of all such sums as the plaintiff shall prove and recover against the principal debtor, in that process, shall be taken and deemed to be true, and execution may issue against him, his proper goods and estate therefor, whenever the said damages and costs are ascertained.

Actions to be continued if requested.

SECT. 3. *And be it further enacted*, That if the said trustee shall appear at the first term, by attorney, and pray a continuance on account of his not being able to attend, or for other sufficient cause, such, and any further and reasonable continuance or continuances shall be granted unto him.

And if it appear to the court by affidavit, that the said trustee is infirm and unable to attend in person at the said court, the said court may appoint a commissioner to administer the oath to the said trustee, and the same proceedings may be had before the said commissioner, as far as relates to the examination of the trustee, and answering interrogatories under oath, as are or may be had in the court when trustees personally appear and answer under oath. And the said commissioner shall cause the plaintiff to be notified of the time and place, when and where he will proceed to such examination, that he may be present at the same.

Trustee to answer upon oath.

SECT. 4. *And be it further enacted*, That when the said trustee shall appear in his proper person, at the court, he may if the plaintiff request it, be put to answer interrogatories under oath, as to the estate, rights or credits of the principal debtor, in his hands or possession, at any time since the service of such summons on him as aforesaid.

And if it shall appear on his oath, or on examination of the whole matter it be found that such trustee had not at the time of serving such process on him as aforesaid, or at the time of his having notice of such suit, or at any time since, any money, goods, chattels, rights or credits of such principal debtor in his hands or possession, judgment shall

thereupon be rendered in favour of such trustee for costs ; and no further proceedings shall upon such process be had against the principal debtor, unless such debtor shall have been personally notified of the suit, and the same shall so appear to the court, unless such debtor shall have actually appeared.

SECT. 5. *And be it further enacted,* That where the said trustee shall appear at the court, and it shall appear on his oath, or on sufficient evidence produced by the plaintiff, that such trustee had money, rights or credits of the said principal debtor in his hands or possession, at the time of the service of such summons as aforesaid, or at the time of his having notice of such suit, or at any time since, a record thereof shall be made. Trustee liable for effects in his hands.

And the said trustee shall be liable to the creditor for the goods and credits so found in his hands, to the value of the judgment recovered against the principal debtor, if so much there be.

And in case the plaintiff shall in such process recover judgment against the principal debtor, execution shall issue against the goods or chattels of the said principal debtor, in the possession of the said trustee, in case goods or chattels shall have been so found in his hands, and a record thereof shall have been made as aforesaid. And on return made by any proper officer, that the said trustee refuseth to expose the said goods and chattels, so that the creditor may levy execution on them ; the court shall, on motion of the creditor, grant a rule to shew cause, why execution on such judgment should not issue against such trustee, his proper goods or estate ; and upon affidavit of the service of such rule on the said trustee, and no sufficient cause shewn to the contrary, such execution shall be awarded as the court may think proper ; and in all other cases except where the same is otherwise specially provided and declared, execution shall issue against the trustee, his proper goods or estate, for the amount of the sums in such trustee's hand, belonging to the principal debtor ; or so much thereof as will satisfy the plaintiff's demand, and all costs, in the same manner as if the said debt were the trustee's own proper debt.

And in case the sum so found in the hands of the said trustee, and for which execution hath issued, or may issue against him, his proper goods or estate, be less than the sum recovered by the plaintiff against the principal debtor, the court may also award execution for the balance against the principal debtor ; but in case the execution awarded against the trustee, be for goods and chattels of the principal debtor, in his hand, the value of which is uncertain, and it shall appear to the court, that such goods and chattels will not be sufficient to pay the whole sum recovered by such plaintiff, the said court may, in their execution against

such goods and chattels, order execution to be done of a certain sum only, and may at the same time award execution for the residue of such judgment against the principal debtor; and the said court may, and shall in all cases, issue execution or executions until the judgment be fully satisfied.

Trustee may
defend for his
principal

SECT. 6. *And be it further enacted*, That in all cases, it shall be the duty of the trustee to give notice of any such process served on him as aforesaid, to his principal; and he shall have a right to retain in his hand so much of the money or goods of his principal, as will compensate him for his trouble herein; and the said trustee, if he acknowledgeth that he hath money, goods, chattels, rights or credits of the principal debtor in his hand, or if it be so found on examination, shall, if he request it, be admitted to defend on the part and behalf of the said principal debtor, and shall upon being so admitted, be entitled to one continuance of course, to notify his principal, when it doth not appear that he hath already had notice, and he shall have such further continuances in order to prepare his defence on the part of the principal as aforesaid, as the court may think just and reasonable, all circumstances considered. But if the said court shall be of opinion that there is fraud and collusion between the plaintiff and the trustee, the said court may refuse to admit the trustee to defend on the part and behalf of the principal, or may admit him to defend under such restrictions as they may think proper, and may, notwithstanding such admission, order the creditor to give notice, such as they may think most likely to have effect, to the principal debtor, before they proceed to trial of the merits of such creditor's demand.

Judgment to
be rendered
against principal
if he doth
not appear af-
ter notice.

SECT. 7. *And be it further enacted*, That if it shall appear on return of the process issued, that the principal hath been duly served with the process, and he doth not appear by himself or attorney to defend, judgment shall be rendered for such sum in damages, as the plaintiff or creditor shall prove to be justly due, with costs of suit.

Actions to be
continued
where the
principal has
not been no-
tified.

But if the said principal debtor be not a resident, or an inhabitant in this state, and no proof be made to the court that he was duly served with a copy of such summons, the said court shall suspend rendering judgment for two terms against such principal debtor, and may order the plaintiff to give such notice of the suit, as they, all circumstances considered, shall think just and reasonable.

And in all cases where the said principal debtor is not an inhabitant or resident of this state, and the process be not served on him in person, and proof thereof made to the court by affidavit, which shall always be in writing and filed in the cause, and the said principal debtor doth not appear, the creditor before he shall have any execution on any judgment he may obtain against any such principal debtor,

in any such case, shall give bond to respond the judgment, which such principal debtor may recover on review of the process, which action of review such principal debtor may commence and prosecute at any time within two years next after judgment rendered against him, and on such action of review, the said principal debtor may plead in the same manner as if no default had been made, or as if no such judgment had been rendered against him.

SECT. 8. *And be it further enacted*, That if the said principal debtor doth appear at the said first term, or at any time before judgment be rendered on such process against him, he shall be admitted to defend the same action, as far as relates to the justice and truth of the demand therein exhibited against him. Principal admitted to defend.

SECT. 9. *And be it further enacted*, That in all cases where the trustee is indebted to the principal debtor, and the time for payment hath not expired, the said court shall suspend issuing execution against such trustee, until the time for payment be expired. Execution to be stayed in case.

SECT. 10. *And be it further enacted*, That when any such trustee shall be indebted to the principal debtor, and the contract be for the delivery of any specifick article or articles, or for payment in any articles, and the time for such delivery or payment be not expired, the court shall suspend issuing execution as before mentioned, and the said creditor shall be agent of the said debtor, for the purpose of receiving such specifick articles, or such payment in such articles, according to the tenor of the contract, and shall levy his execution on such articles so received, to the amount of his debt and costs, and no more ; unless in cases where it is impossible to make a division, in which case he shall return the overplus to such principal debtor whenever he shall request the same. Trustee to pay in specifick articles in certain cases.

SECT. 11. *And be it further enacted*, That the goods, effects or credits of any absent or absconding debtor, so taken as aforesaid, by process and judgment of law, out of the hands of the trustee by any of his said creditors, shall fully acquit and forever discharge such trustee, his executors or administrators, of, from and against all actions, suits, damages, payments and demands whatsoever, to be asked, commenced, had, claimed or brought by his principal, his executors or administrators for the same ; and if any such trustee be sued for any thing by him done, pursuant to this act, he may plead the general issue, and give this act and the special matter in evidence. Trustees to be discharged for what is recovered.

SECT. 12. *And be it further enacted*, That the summons before mentioned shall be in the form following, namely :

AN ACT to prevent Trespasses upon the Waste Lands within this state. Passed Nov. 26, 1778

WHEREAS sundry evil minded persons, taking advantage of the present distressing situation of the publick affairs of this state, have since the commencement of the present war, without colour of right, entered into and taken possession of divers tracts of waste land within this state, being either unappropriated lands or lands heretofore belonging to those persons who since the commencement of the present war, have gone from this or any other of the United States, and joined the enemies thereof:—*For remedy whereof, and for preventing the like evil for the future :*

Be it enacted by the council and assembly, and it is hereby enacted, That no person or persons shall hereafter presume, without leave of the legislature of this state, to enter into, or take possession of any of the waste lands within this state, being either unappropriated lands, or lands belonging to or forfeited by those persons, who since the commencement of the present war have gone from this, or any of the United States and joined the enemies thereof; or to continue in the possession or occupation of any of the lands aforesaid, entered into and taken possession of, without colour of right as aforesaid, for the space of three months after the passing of this act, on penalty of forfeiting the sum of one hundred pounds for each offence, to be recovered by indictment of the grand jury; the one half for the use of this state, and the other half to the use of the person who shall give information thereof to the grand jury.

Penalty for trespasses on waste lands.

And no possession being obtained or held as aforesaid, shall be of any avail in law in favour of such possessor.

Passed November 26, 1778.

AN ACT for preventing Trespasses.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That from and after the publication of this act, no person shall cut, fell, destroy or carry away any trees, wood, timber or underwood whatsoever, standing, lying or growing on the land of any other person, or off, or from the commons of any town, other than that to which he doth belong, or within the same town, having no right there, without leave or license from the major part of the proprietary of such commons, or the owner or owners of the land on which such trees, timber, wood or underwood were standing, lying, or growing; or shall cut out, or alter the mark of any mill-log or logs in any river or mill dam; or shall saw, or cut into any sort of timber, any log or logs that are not their own property, without

Passed Feb. 15, 1791.
[Sept. 15, 1792.]

Penalty for cutting trees, &c. on another's land.

the owner's leave or license, on pain that every person so cutting, felling, or destroying, or carrying away the same, or cutting out, or altering, or sawing any log or logs, or aiding and assisting therein, shall for every such trespass, forfeit and pay to the parties injured, or trespassed upon, the sum of forty shillings for every tree or log of one foot over; and for all trees or logs of greater dimensions, three times the value thereof, besides forty shillings as aforesaid, and twenty shillings for every tree or pole under the dimensions of one foot diameter; and for other wood, or underwood, treble the value thereof; which several penalties, forfeitures and damages, shall, and may be recovered by action, upon conviction of the trespasser or trespassers, as is hereafter specially provided and enacted, before any justice of the peace, if the penalty or damage exceed not forty shillings; but if it be above that value, then before the court of common pleas.

Penalty for
destroying
fences, &c. or
digging on
another's
land.

SECT. 2. *And be it further enacted*, That if any person or persons shall throw down, or leave open any bars, gates, fence or fences, belonging to, or inclosing any lands holden in propriety or common, or belonging to any particular person or persons within any town in this state, or that shall dig up or carry away any stones, ore, gravel, clay or sand, belonging to the proprietors of any common land, or to any particular person or persons as aforesaid, every such offender shall for every such trespass, upon conviction thereof, as in and by this act is hereafter provided, forfeit and pay treble damages to the party or parties injured thereby; and also a sum not exceeding five pounds, according to the nature or aggravation of the trespass; to be recovered in manner as aforesaid.

And forasmuch as it is very hard and difficult to detect and convict any trespasser or trespassers against this act, in the ordinary method or course of the law, because the trespasses are generally committed where positive evidences can scarcely ever be had;

Mode of
proof.

SECT. 3. *Be it therefore further enacted*, That in case any dispute arise, upon any action, brought as aforesaid, where the plaintiff shall charge the defendant in trespass, for cutting, felling, destroying or carrying away any particular tree or trees, parcels of timber, wood or underwood, or for throwing down or leaving open any fence or fences, gates or bars, or for digging up, or carrying away any stones, ore, gravel, clay or sand, turf or mould, or for cutting, or altering the mark of any mill-log or logs in any river, or at any mill-dam, or on the land; or for cutting or sawing into any sort of lumber, any mill log or logs, which are not their own property, without leave of the owner as aforesaid, or of aiding or assisting therein; then, and in such case, if the plaintiff, his agent or attorney shall make oath that there have been cut, felled, destroyed or carried away, so many trees or logs,

marks of logs cut out or altered, or sawed, or cut into any sort of lumber, or carried away such and so many trees, parcels of wood or underwood, or that any fence or fences, gates or bars have been thrown down or left open, or that any stones, ore, gravel, clay or sand hath been dug up or carried away, as mentioned in the writ, and that he suspects the defendant to have committed the said trespass; and although the plaintiff may not be able to produce any other evidence thereof, than such circumstances as render it highly probable in the judgment of the court or justice that shall try the cause, or before whom the trial is; then, and in every such case, unless the defendant shall acquit himself upon oath (to be administered to him by the court or justice that shall try the cause) the plaintiff shall recover of the defendant, damages and costs, but if the defendant shall acquit himself upon oath as aforesaid, the court or justice may, and shall enter up judgment for the defendant, to recover against the plaintiff his double costs occasioned by such prosecution.

Passed February 15, 1791.

AN ACT *subjecting lands and tenements to the payment of debts, and directing the mode of levying executions on real and personal estate.* Passed Feb. 15, 1791.
[Sept. 15, 1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That all lands and tenements belonging to any person in his own proper right in fee, shall stand charged with the payment of all just debts owing by such person, as well as his personal estate, and shall be liable to be taken in execution for satisfaction of the same, where the debtor, or his attorney, shall not expose to view, and tender to the creditor or officer, personal estate, sufficient to answer the sum mentioned in the execution with the charges.

Lands liable to be taken in execution.

And all executions duly served upon any lands and tenements, being returned into the clerk's office of the court out of which the same issued, and there recorded, shall make a good title to the party for whom they shall be so taken, his heirs and assigns forever.

Executions levied on land to be recorded.

Provided, nevertheless, That in case the said debtor or debtors, their executors or administrators shall any time within one year from the return of any execution levied on real estate, into the clerk's office, from whence it issued, go to the creditor or creditors, their executors, administrators or assigns, and tender and pay to them the full of the debt and charges mentioned in such execution, and the interest for such debt and charges from the time of the return of such execution into the clerk's office, as aforesaid, every such debtor or debtors, their heirs, executors or administrators shall re-enter into such lands and tenements by due

Redemption.

process of law, and be re-established in their former estate in such lands and tenements, as if such execution had never been levied upon the same.

Fraudulent
sales void.

SECT. 2. *And be it further enacted*, That when any person shall alienate any lands and tenements to him of right belonging, with intent to defeat and defraud his creditors of their just debts, such conveyance not being made for good and valuable consideration, truly paid or secured to be paid, all such sales and alienations shall be deemed covenous and fraudulent, and shall be of none effect to bar any person from recovering such debt as is to him owing.

Mode of levy-
ing on real
estates.

SECT. 3. *And be it further enacted*, That the manner of levying executions on real estate shall be as follows—The creditor shall deliver his execution to the sheriff of the county, or his deputy where the debtor's land and tenements lie, who shall cause three appraisers to be chosen, one by the creditor or creditors, another by the debtor or debtors, if he or they so please, and the third by the sheriff; which appraisers shall be reputable freeholders and residents in such county.

And in all cases where the debtor shall on due notice, neglect or refuse to choose an appraiser, the officer shall appoint one for such debtor or debtors, and the said appraisers, having taken their oaths before any justice of the peace, faithfully and impartially to appraise such lands and tenements as shall then be shewn them, as the estate of such debtor or debtors, shall appraise the same to satisfy the execution with the officer's fees, and set off such lands and tenements by metes and bounds, and the sheriff shall thereupon deliver possession and seizin thereof to such creditor or creditors, or to his or their attorney, which being returned and recorded shall be a good title to such creditor or creditors, saving the equity of redemption as is by law provided.

or on the
rents and
profits.

And when it happens that lands and tenements cannot be divided and set out by metes and bounds as aforesaid, then such sheriff shall extend such execution upon the rent of such lands and tenements, and give seizin thereof to such creditor or creditors, or his or their attorneys, and shall cause the tenant or tenants thereof to attorn and become tenant or tenants of such creditor or creditors, and to pay their rents to him or them accordingly, and upon refusal thereof to turn such tenant or tenants out of the possession thereof, and give livery, seizin and possession of the same to such creditor or creditors, to hold and enjoy such lands and tenements 'till such judgment, interest and fees be fully satisfied and paid, reserving thereout the widow's dower or thirds, if any be.

Provided always, That it shall and may be lawful for such debtor or debtors, or his or their agent or attorney, at any time or times before such judgment, interest and charges be fully satisfied, to tender and pay to such creditor or

creditors the full of his debt, interest and charges, or such part thereof as may be due, and the said creditor is hereby obliged to accept the same, and surrender up to such debtor or debtors his agent or attorney such lands and tenements, and deliver up quiet and peaceable possession thereof; any law, usage or custom to the contrary notwithstanding.

SECT. 4. *And be it further enacted,* That when any goods or chattels shall be taken to satisfy an execution issuing upon a judgment obtained, such goods or chattels shall be safely kept by the officer, at the expense of the debtor, for the space of four days next after they are so taken; and if within that time the owner shall not redeem the same, by otherwise satisfying the execution, such goods and chattels shall be sold at publick vendue to the highest bidder, having first been advertised, by the posting up of notifications of the time and place of sale, forty-eight hours before the expiration of the said four days, at two of the most publick places in the town or place where the sale is to be; and the money arising upon such sale shall be applied to the paying of the charges, and to the satisfying of the execution, and the officer shall return the overplus (if any there be) to the debtor, and the officer who is possessed of the execution, shall make return of the same with his doings therein, particularly describing the goods taken and sold, and the sum for which each article was struck off; and if any officer shall be guilty of any fraud in the sale, or the return as before mentioned, he shall be liable to the debtor to pay him five times the sum defrauded, to be recovered by action on the case.

Mode of levying on personal estate.

SECT. 5. *And be it further enacted,* That when execution shall be levied on any estate for the purpose of satisfying such execution, and after the levying thereof, it shall appear that such estate levied upon did not at the time of levying belong to the debtor, then, and in every such case, upon the application of the creditor to the court or justice from whom such execution issued, such court or justice may order a writ of *scire facias* to issue against such debtor, requiring him to appear before said court or justice, and shew cause, if any he have, why an alias execution should not issue against him for debt and costs, and if such debtor being duly summoned, shall neglect to appear in obedience to such writ, or appearing shall not shew sufficient cause why an alias execution should not issue against him, the court or justice shall thereupon order an alias execution against such debtor for debt and costs, or if they think just, they may award execution for debt only; and in all cases they may if they think it just, add the fees of levying to the costs; and the doings by virtue of the former execution shall be considered as void and of no effect in law. But if it shall appear to the said court or justice, that the creditor had

Remedy when lands extended did not belong to the debtor.

no just cause for such application, the debtor shall recover against the creditor double costs, and the court or justice shall award execution accordingly.*

Act of 22
Dec. 1808
extends the
time to 20
years.

Provided, nevertheless, That no application by any creditor shall be sustained, after the expiration of three years, from the time of extending and levying execution as aforesaid.
Passed February 15, 1791.

* On the first of February 1791, an Act passed entitled, an Act providing remedy when executions are levied upon estate not the property of the debtor—This act was not printed. It was supposed unnecessary, as the last section of the above act contained similar provision. It was however expressly repealed by the act of 18th June, 1805, published in the appendix.

Passed Dec.
22, 1808.

AN ACT in addition to an act, entitled, "An act subjecting lands and tenements to the payment of debts, and directing the mode of levying executions on real and personal estate," passed February 15, 1791.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the last paragraph of the act aforesaid, to which this is an addition, which said paragraph provides that no application shall be made by any creditor, for the purpose of obtaining an alias execution against a debtor, in the case and in the manner by said act prescribed, shall be sustained after the expiration of three years from the time of extending and levying execution on estates, which did not, at the time of such levying, belong to such debtor, as by said act is mentioned, be, and the same is hereby repealed.

SECT. 2. *And be it further enacted, That an application by any such creditor for the purpose of obtaining an alias execution as aforesaid, shall be sustained, if made at any time within twenty years from the time of extending and levying execution on estate not the property of the debtor aforesaid.*
Approved December 22, 1808.

Passed Dec.
11, 1812.

AN ACT prescribing the mode of attaching on mesne process and selling on execution shares in incorporated companies, and pews in meeting houses and other places of publick worship.

Turnpike
shares, &c.
may be at-
tached, and
taken in ex-
ecution.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the share or shares, or interest of any person in any turnpike, bridge, canal or other company, which has been or may hereafter be incorporated by the legislature of this state, with all the rights and privileges appertaining to such shares, may be attached on mesne process and taken in execution; and when any such shares or interest shall be attached on mesne process, or taken

on execution without such previous attachment, an attested copy or copies of such writ of attachment or execution shall be, by the officer holding the same, left with the clerk and treasurer, secretary or cashier of such company: and so many of said shares, or so much of said interest may be sold on said execution, at publick vendue, to the highest bidder, as shall be sufficient to satisfy the same and the charges of sale, after notice shall have been given of the time and place of sale in manner as hereinafter provided; and in case the officer making the sale, or the purchaser or purchasers of any such shares or interest, do cause an attested copy or copies of such execution and the officer's return thereon to be left with such clerk and treasurer, secretary or cashier, within fourteen days after the sale is completed, and pay for the recording the same, such purchaser or purchasers shall be thereby entitled to such shares and interest, with all the privileges appertaining thereto, and the income and dividends which may have accrued or been made on the same subsequent to the attachment thereof on mesne process; and it shall be the duty of the proper officer or officers of such corporation to issue to the purchaser or purchasers, under such execution, such certificates as by the by-laws and regulations of such corporation are the evidences of the shares or interest of a proprietor in such corporation.

Copy of writ to be left with the clerk.

Shares may be sold on execution.

Purchaser entitled to certificate from proper officer of the corporation.

SECT. 2. *And be it further enacted*, That an attachment of such shares or interest on mesne process shall hold the same, and also all dividends growing due after such attachment, to respond the final judgment, which may be rendered thereon, until the expiration of thirty days after the rendition of such judgment; and in case the same are not within that time taken by execution on such judgment, the shares, interests or dividends so attached as aforesaid, shall no longer be holden thereby: and an attested copy or copies of the execution left with the clerk and treasurer, and secretary or cashier of the corporation; and an advertisement of the time and place of sale being once published within said thirty days, shall be deemed a taking such shares or interests in execution, pursuant to the attachment on the original writ.

SECT. 3. *And be it further enacted*, That in making sale of any such shares or interest, the officer holding the execution shall give notice in writing of the time and place of sale to the judgment debtor, by leaving the same at his last and usual place of abode, if within the county in which said officer dwells; and publick notice of the said time and place of sale shall also be given, by posting up notifications thereof in one or more publick places in the town where such sale is to be made, and also in one or more publick places in the two adjoining towns, thirty days at least before the time of sale, and further shall cause an advertisement expressing the time and place of sale, and against whom such exe-

Notice of sale, to be given to the debtor.

Sale may be
adjourned.

cution shall have issued on which such shares or interests have been taken, to be published three weeks successively before the day of sale, in the manner the act of incorporation or the by-laws of said corporation require the notice of a sale of shares or interest in such corporation for the non-payment of assessments thereon: and in case the judgment debtor has at no time resided within, or does not then dwell in such county, the posting up such notifications and publishing such advertisement in manner aforesaid shall be deemed sufficient notice of such sale; and in case the shares or interest so notified for sale, shall not, for want of purchasers, be disposed of at the time appointed for sale, the officer shall adjourn the sale for a time not exceeding three days, and from time to time, until the sale shall be completed.

Duty of
clerks, &c.
to give certi-
ficates.

SECT. 4. *And be it further enacted*, That whenever any officer having a writ of attachment or execution against any person interested in any such company, shall exhibit to the clerk, treasurer or cashier thereof such writ or execution, and request a certificate from him of the number of shares or amount of interest, (with a description thereof) owned by the debtor in such company, it shall be the duty of such clerk, treasurer or cashier, to give the said officer a certificate of the number of shares or amount of interest holden and owned by the debtor in such company, and therein express the numbers or other marks by which such shares or interest are distinguished; and in case such clerk, treasurer or cashier shall wilfully refuse to make and deliver to the officer such certificate, or shall wilfully make and deliver a false certificate thereof, such clerk, treasurer or cashier shall be liable to pay to the creditor the full contents of such execution, and the contents of the judgment which may be recovered by the plaintiff in such writ of attachment, and the same may be recovered by the judgment creditor in an action of debt, in any court proper to try the same.

Penalty for
neglect or re-
fusal.

Surplus mon-
ey to be dis-
posed of as
the law di-
rects.

SECT. 5. *And be it further enacted*, That in the cases of sale upon execution as aforesaid, if any surplus money remain in the hands of the officer, after satisfying such execution and the charges of sale, it shall be disposed of in the manner the law directs the disposition of surplus money arising from the sale of personal property sold on execution.

Pews, &c.
shall be deem-
ed personal
property.

SECT. 6. *And be it further enacted*, That pews or seats in meeting houses, churches and other places of public worship shall hereafter be deemed personal property: and the same may be attached on mesne process by giving to the debtor, or leaving at his last and usual place of abode, an attested copy of the writ by which the same are attached, with an attested copy of the officer's return thereon, fourteen days before the sitting of the court to which said writ be returnable; and the said attachment shall hold the same to respond the final judgment which may be rendered in the action to which said writ appertained until thirty days next af-

ter the rendition of said final judgment: and the pew or pews, seat or seats attached as aforesaid may be taken in execution and sold at publick vendue to the highest bidder, according to the regulations prescribed by law for selling other personal estate taken in execution: and when pews, seat or seats are taken in execution without any previous attachment, an attested copy of such execution, with a certificate thereon, expressing that the said pew or pews, seat or seats have been taken on said execution and will be sold according to law, shall be given to the judgment debtor, or left at his last and usual place of abode, and the same shall be deemed a taking of said pew or pews, seat or seats on said execution; and thereupon the same proceedings shall be had to satisfy said execution by the sale of said pew or pews, seat or seats, as are required by law for the sale of personal property taken on execution; and the pew or pews, seat or seats, so sold, shall thereafter become the property of the purchaser or purchasers at said sale: and if any surplus money remain in the hands of the officer after satisfying such execution and the charges of sale, it shall be disposed of in the manner the law directs officers to dispose of surplus money arising from the sale of personal property sold on execution.

SECT. 7. *And be it further enacted*, That it shall be the duty of the officers of every corporate body in this state to shew to any sheriff or deputy sheriff, on request, such records or documents in their keeping as may be useful to direct or assist him in the performance of his official duty; and if any officer of any corporate body in this state refuse or neglect to shew the records or documents in his keeping, he shall forfeit and pay to said sheriff or deputy sheriff for every such refusal or neglect, the sum of twenty dollars, to be recovered in any court of competent jurisdiction; and if any person or persons shall suffer loss by such refusal or neglect of said officers, or either of them, the person or persons so suffering loss shall have a right to recover the damages he or they have sustained by the said refusal or neglect of said officer or officers in any action or actions against said officer or officers so neglecting in any court of competent jurisdiction.

Duty of officers of corporations to exhibit records to sheriffs.

Penalty for neglect or refusal.

Approved December 11, 1812.

AN ACT for the convenient and speedy Assignment of Dower.

Passed Feb. 9, 1791.
[Sept. 15, 1792.]

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That when the heir or other person having the freehold, shall not within one month after demand made, assign and set over to the widow of the deceased, her dower or just third part of, and in all houses, lands, tenements and hereditaments, whereof she is

Widows may sue for their dower.

dowable at the common law, to her satisfaction, according to the true intendment of law; then such widow may sue for and recover the same by writ of dower, to be therefor brought against such persons as have, or claim to have right as aforesaid in said estate, in manner and form following;

Writ of dower,
unde nihil habet.

State of New-Hampshire.

R

ss.

To the sheriff of our said county of his under sheriff or deputy, Greeting.

Command B. D. of G. *addition* that instantly and without delay render to C. D. who was the wife of E. D. late of M. *addition*, deceased, her reasonable dower, which happens to her of a certain messuage or tenement with the appurtenances situate in G. aforesaid in the possession of the said C. D. which was in the seizin and possession of her said husband E. D. and whereof he was seized in his demesne as of fee during the coverture, and whereof she hath nothing as she saith, and the said C. D. complains, that the said B. D. hath deformed her thereof, and unless the said B. D. shall so do, then summon the said B. D. to appear before our justices of our next court of common pleas to be holden at on then and there to shew cause why the said C. D. her reasonable dower as aforesaid doth not render, and have you there this writ, with your doings therein. Witness Esq. at the day of in the year of our Lord,

B. G. Clerk.

And may recover damage and seizin.

SECT. 2. *And be it further enacted*, That upon judgment being given for any woman to recover her dower in any estate of houses and lands and other hereditaments, which were her husband's, reasonable damage shall also be assigned to her from the time of the demand made, and a writ of seizin shall issue in manner and form following, viz.

Writ of seizin.

State of New-Hampshire,

R

ss.

To the sheriff of our said county of his under sheriff or deputy, Greeting.

Whereas C. D. widow, who was the wife of E. D. late of B. in *addition*, deceased, before our justices of our court of holden at for our county of aforesaid, on the day of did recover her seizin against of B. aforesaid *addition* of one third part of a certain messuage or tenement, &c. with the appurtenances, situate in aforesaid, in possession of the said as her dower of the endowment of the said her certain husband, by our writ of dower, whereof she hath nothing. Therefore we command you that to the said C. D. full seizin of one third part of the afore-

said messuage, or tenement, &c. with the appurtenances, you cause to be had without delay, to hold to her in severalty by metes and bounds. We command you also, that of the goods or chattels of the said within your precinct, you cause to be paid and satisfied unto the said C. D. at the value thereof in money, the sum of for damages awarded her by our said court, for her being holden and kept out of her dower aforesaid, and costs expended on the suit, with two shillings more for this writ; and thereof also to satisfy yourself your own fees: And for want of goods or chattels of the said A. B. to be by him shewn unto you, to take his body and commit him to the keeper of our gaol in aforesaid, within the said prison, whom we likewise command to receive the said B. and him safely to keep, until he pay unto the said C. D. the full sum abovementioned, and also satisfy your fees: Hereof fail not and make return of this writ, and how you shall have executed the same, to our next court of to be holden at for our said county of on the day of next. Witness E. G. Esq. at the day of in the year of our Lord,

F. A. Clerk.

And where no damage shall be awarded, the writ to run only for seizin and cost of suit.

And the sheriff or his deputy, to whom such writ is directed, shall cause her third part or dower in such estate to be set off, by three freeholders of the neighbourhood, upon their oaths, who shall be sworn before a justice to set off the same equally and impartially, without favour or affection as convenient as may be; which oath every justice of the peace is hereby empowered to administer; a return made to the sheriff by any two of them agreeing, shall be sufficient, provided all the three shall have attended the business.

Service of the writ of seizin.

SECT. 3. *And be it further enacted*, That of inheritances that shall be entire, where no division can be made by metes and bounds, or where a woman cannot be endowed of the premises, she shall be endowed thereof in a special and certain manner, as of the third part of the rents, issues, or profits thereof, to be computed and ascertained in manner as aforesaid. And no woman that shall be endowed of any lands, tenements or other inheritances, as aforesaid, shall commit or suffer any strip, or waste thereupon, but shall maintain the houses and tenements, with the fences and appurtenances thereof, with which she shall be so endowed, in good repair during the term, and leave the same so at the expiration thereof, and shall be liable to action for any strip or waste by her done, committed or suffered.

How dower shall be assigned where the estate cannot be divided.

Passed February 9, 1791.

Passed Dec.
13, 1804.

AN ACT relating to Dower.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That no woman who shall hereafter become a widow shall be entitled to dower in any lands whereof her husband was seized during the marriage, unless such lands were in a state of cultivation during such seizin, or were used or kept as a wood or timber lot, and considered as appurtenant to some farm or tenement at the same time owned by the husband of such woman.*

SECT. 2. *And be it further enacted, That when any person, who in his lifetime was seized of lands and tenements cultivated or improved, and shall lose or part with his title therein, and shall afterwards die, leaving a widow having right of dower in the same, such widow shall be endowed of one third part in value of such lands with the buildings thereon according to the value thereof at the time such husband so lost or parted with his title thereto, and such widow shall also be endowed of such part of said lands as will produce an income, equal to one third part of the income which such lands produced at the time such husband lost or parted with his title therein, and not otherwise.*

Approved December 13, 1804.

Passed Feb.
10, 1791.
[Sept. 15,
1792.]

Estates at
will.

AN ACT declaring the mode of conveyance by Deed.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That all leases, estates, interest of freeholds, or term of years, or any uncertain interest of, in or out of any messuages, lands, tenements or hereditaments made and created by livery and seizin only, or by parole, and not in writing signed by the parties so making or creating the same, or by their agents, thereunto lawfully authorized by writing, shall have the force and effect of leases, or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force, any consideration for making any parole leases or estates, any former law to the contrary notwithstanding.*

And no leases, estates or interests, either of freehold or term of years, or any uncertain interest of, in, or out of any messuages, lands, tenements or hereditaments, shall be assigned, granted or surrendered, unless by deed or note in writing, signed by the party so assigning, granting or surrendering, or their agents, thereunto lawfully authorized and empowered by writing, or by act and operation of law.

SECT. 2. *And be it further enacted, That all grants and assignments, and all declarations and creations of trusts or*

Estates in
trust.

confidences, of any lands, tenements or hereditaments, shall be manifested and proved by some writing signed by the party, who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect.

Provided always, That where any conveyance shall be made of any lands, tenements or hereditaments, by which a trust or confidence shall arise or result by the implication or construction of law, to be transferred or extinguished by an act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect, as the same would have been if this act had not been made ; any thing therein contained to the contrary notwithstanding.

SECT. 3. *And be it further enacted*, That no action shall hereafter be maintained upon any contract or sale of lands, tenements, or hereditaments, or any interest in, or concerning them unless the agreement upon which such action shall be brought, or some memorandum thereof, be in writing and signed by the parties to be charged therewith, or signed by some other person thereunto lawfully authorized by writing. Contracts to be in writing.

SECT. 4. *And be it further enacted*, That all deeds or other conveyances of any lands, tenements or hereditaments lying in this state, signed and sealed by the party granting the same, having good and lawful authority thereunto, and signed by two or more witnesses, and acknowledged by such grantor or grantors before a justice of the peace, and recorded at length in the registry of deeds in the county where such lands, tenements or hereditaments lie, shall be valid to pass the same, without any other act or ceremony in law whatever : and no deed of bargain and sale, mortgage or other conveyance, in fee simple, fee tail, or for term of life, or any lease for more than seven years from the making thereof, of any lands, tenements or hereditaments in this state, shall be good and effectual in law to hold such lands, tenements or hereditaments against any other person or persons, but the grantor or grantors, and their heirs only, unless the deed or deeds thereof, be acknowledged and recorded in manner aforesaid. Deeds.

Provided, nevertheless, That when any grantor or lessor shall go beyond sea or be removed out of this state, or be dead, before the deed or conveyance by him or her signed be acknowledged as aforesaid, in every such case, the proof of such deed or conveyance made by the oath of one or more of the witnesses, whose names may be thereto subscribed before any court of record within this state, shall be equivalent to the grantor's acknowledgment thereof before a justice of the peace. How proved after the grantor's death.

And where the witnesses to any deed or other conveyance shall be dead before the same shall be acknowledged, and

the grantor or grantors are also dead, the proof of the hand writing of the grantor or grantors, and of the subscribing witnesses thereto made by the oath of two witnesses before any court of record within this state, shall be equivalent to the acknowledgment of such grantor or grantors before any justice of the peace as before mentioned.

Provided, That it shall be made to appear to the satisfaction of the justices of the court before whom such proof shall be made, that the grantee or grantees in said deed or conveyances mentioned, have, in the lifetime of the grantor or grantors, taken actual possession of the real estate conveyed by such deed, and that such grantee or grantees, or some person or persons claiming under him, her or them, have continued such actual possession quietly to the time when such application shall be made to such court, for the purposes aforesaid.

See act of 24
Dec. 1799.

How proved
where the
grantor refuses to ac-
knowledge.

SECT. 5. *And be it further enacted*, That if any grantor or lessor of any lands, tenements or hereditaments refuse to acknowledge any deed of bargain and sale, mortgage or other conveyance as aforesaid, by him or her signed, it shall be lawful for such grantee or lessee to put the same on record without any acknowledgment, and such deed so recorded in the registry of deeds, shall be deemed sufficient caution to all persons against purchasing, attaching or levying execution on the same land, for the space of sixty days from the time of recording; and shall during that time, be good and effectual in law, to all intents and purposes, as though such deed or other conveyance were duly acknowledged.

And any justice of the peace and of the quorum, after such refusal, at the request of the grantee or lessee, his heirs, executors, administrators or assigns, may issue a summons for such grantor or lessor to appear before him, at a certain place and time in said summons mentioned, to hear the testimony of the subscribing witnesses to said deed or other conveyance; and upon return made to the said justice, written on an attested copy of said summons, and signed by any constable, sheriff or deputy sheriff, that the original was delivered to the person to be summoned, or left at his usual place of abode, at least seven days before the day appointed for examining the witnesses to said deed or other conveyance as aforesaid, the said justice may proceed, whether the said grantor or lessor shall attend the examination or not, to take the proof of the execution of such deed or other conveyance; and if one or more of the subscribing witnesses to such deed or other conveyance, shall make solemn oath before the said justice, that he or they saw the said grantor or lessor voluntarily sign and seal the said deed, and that he or they subscribed his or their names as witnesses thereto at the same time, such proof and a certificate thereof, under the hand of the said justice, wherein the presence or absence of the grantor or lessor at such examination shall be particular-

ly noted, shall be equivalent to the acknowledgment of the grantor before any justice of the peace.

Provided always, That nothing in this act contained, shall be construed or deemed to bar any widow of the grantor or lessor of any lands, tenements or hereditaments from her dower or right in and to such lands, tenements or hereditaments, who did not legally join with her husband in such deed of bargain and sale, mortgage or lease, or otherwise lawfully bar or exclude herself from such dower or right. Not to bar dower.

SECT. 6. *And be it further enacted*, That when any deed of bargain and sale, mortgage or other conveyance of any lands, tenements or hereditaments, shall be made by virtue of any power of attorney or instrument authorizing any person to execute such deed or other conveyance, the said power or instrument being recorded in the office where the deed made by virtue thereof by law should be recorded, such power having been signed, sealed and acknowledged before a justice of the peace, by the party having lawful right to make the same, a copy thereof from the records shall be read in evidence when the original cannot be produced, in the same manner as the copy of the deed made thereby is admitted in evidence. Executed by attorney.

SECT. 7. *And be it further enacted*, That all deeds of bargain and sale, mortgage or other conveyance of real estate, heretofore made and executed according to former laws and usage within this state, shall be valid and effectual. Executed according to former laws, valid.

SECT. 8. *And be it further enacted*, That any purchaser or purchasers of any real estate within any of the counties in this state, may record his or their deed or deeds in any county, besides recording it in the county where such estate lies; and in case of misfortune to the original deed, or destruction of the records in the county where such estate lies, then an attested copy of such deed or deeds, produced from any of the other county records, shall be allowed as authentic as copies from the recorder's office in the county where such estate is situate. May be recorded in two counties.

Passed February 10, 1791.

AN ACT in addition to an act declaring the mode of conveyance by deed, passed the 10th day of February, 1791. Passed Dec. 24, 1799.

WHEREAS in and by said act, it is among other things enacted, "that where the witnesses to any deed or other conveyance shall be dead before the same shall be acknowledged, and the grantor or grantors are also dead, the proof of the hand writing of the grantor or grantors, and of the subscribing witnesses thereto made by the oath of two witnesses before any court of record within this state, shall be equivalent to the acknowledgment of such grantor or grantors before any justice of the peace."

“Provided, That it shall be made to appear to the satisfaction of the justices of the court before whom such proof shall be made, that the grantee or grantees in said deed or conveyance mentioned, have in the life time of the grantor or grantors, taken actual possession of the real estate conveyed by such deed, and that such grantee or grantees, or some person or persons claiming under him, her, or them, have continued such actual possession quietly to the time when such application shall be made to such court, for the purposes aforesaid :”

But no provision is made in said act, where the witnesses, whose names are subscribed to such deed, shall have gone beyond sea, or removed out of the United States before the deed be acknowledged.

Be it therefore enacted by the senate and house of representatives, in general court convened, That where the witnesses, whose names are subscribed to any deed of bargain and sale, or other conveyance, shall have gone beyond sea or removed out of the United States before the same deed shall be acknowledged, the proof of the hand writing of such subscribing witnesses, may be made in the same cases, and in the same manner, and shall have the same effect and validity as such proof, when made, pursuant to the said act in case of the death of the subscribing witnesses.

Approved December 24, 1799.

Passed June
21, 1809.

AN ACT directing how joint tenancies shall be created.

WHEREAS it often happens that joint tenancies are created against the intentions of the parties, to gifts, grants and other conveyances, and also of testators, through ignorance of the proper terms to create estates in common; Therefore,

Estates to be
deemed as
held in com-
mon,

Be it enacted by the senate and house of representatives, in general court convened, That all gifts, grants, feoffments, devises, and other conveyances of any lands, tenements and hereditaments, which have been or shall be made to two or more persons, whether for years, for life, in tail, or in fee, shall be taken, deemed and adjudged to be estates in common, and not in joint tenancy, unless it has been or shall be therein said, that the grantees, feoffees, or devisees, shall have or hold the same lands, tenements or hereditaments jointly, or as joint tenants, or in joint tenancy, or to them and the survivor or survivors of them, or unless other words be therein used, clearly and manifestly shewing it to be the intention of the parties to such gifts, grants, feoffments, devises, or other conveyances, that such lands, tenements and hereditaments should vest and be held as joint estates, and not as estates in common.

unless the in-
tention other-
wise express-
ed.

Provided, nevertheless, Where any estate has already vested in the survivor or survivors upon the principle of

joint tenancy, it shall be held in like manner as it would have been held had this act never passed; any thing herein to the contrary notwithstanding.

Approved June 21, 1809.

AN ACT for preventing Frauds in the Transfer of Real Estate. Passed Nov-5, 1813.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That all executions that shall be served and satisfied, in whole or in part, by being levied on any real estate, the creditor therein mentioned shall cause the same to be entered and recorded at length, with the return, in the registry or records of deeds, in the same county in which such real estate shall lie. And the original execution shall be afterwards returned into the office from whence it issued; and no levy of execution on any lands, tenements, or hereditaments, in this state, wherein the judgment debtor or debtors shall have any greater estate or interest than a term of seven years, shall be good and effectual in law, to hold or pass such debtor's right or interest in such lands, tenements, or hereditaments, against any person or persons, unless the execution, with the return thereof, be recorded in the manner aforesaid; before such execution is returned to the office from whence it issued.

Executions, &c. to be recorded in registry of deeds.

Originals to be returned to clerk's office.

SECT. 2. *And be it further enacted,* That no title or estate in fee simple, fee tail, for term of life, or any lease for more than seven years from the making thereof, of any lands, tenements, or hereditaments, within this state, shall be defeated or incumbered by any bond, or other deed, or instrument of defeazance hereafter to be made, in the hands or possession of any person, unless such bond, deed, or other instrument of defeazance, be recorded at length in the registry of deeds, in which the original deed referred to in said bond, deed, or other instrument of defeazance, shall have been recorded.

Defeazance to be recorded.

SECT. 3. *And be it further enacted,* That the fees to be received by the register of deeds for recording or certifying, or other services required by this act, shall be regulated by the table of fees already provided.

Register's fees.

Approved November 5, 1813.

AN ACT prescribing the time and mode of redeeming Real Estate mortgaged, or conveyed by deed of bargain and sale, with defeazance. Passed Feb. 16, 1791.
[Sept. 15, 1792.]

BE it enacted by the senate and house of representatives, in general court convened, That all real estate conveyed or pledged by mortgage or deed of bargain and sale, with defeazance, may be redeemed by the mortgagor

Redemption of mortgaged estates.

or vendor, his heirs, executors, administrators or assigns, on payment of all the sums of money, to secure the payment of which such mortgage or deed was made, agreeably to the tenor and effect of the condition in such mortgage contained, or in such writing of defeazance expressed, or on performance of the condition on which such real estate was mortgaged or conveyed, or in case any action hath been brought and final judgment rendered thereon, then on payment of such sum or sums of money as the damages and costs in such judgment mentioned, with the fees and charges on any writ of seizin that may have issued thereon, with interest for such damages and costs to the time of redemption shall amount unto, or in case any such action may be pending, then on payment of all such costs as may have arisen on any such suit, in addition to the payment and performance of the condition in such mortgage or writing of defeazance contained and expressed; provided such payment or performance in all the cases before mentioned, shall be made, or tender thereof made to the mortgagee or vendee, his heirs, executors, administrators or assigns, within one year after such mortgagee or vendee, or the person claiming under him shall have entered into and have taken peaceable possession of such real estate for the condition broken, or within one year after such person shall have been in peaceable and continued actual possession of such estate, after the condition broken, whether such possession in either case shall have been gained by process of law, or by peaceable entry without such process.

Mortgages
satisfied to be
discharged.

And in all cases where payment shall be made or tendered as aforesaid, or the condition on which any real estate was conveyed shall be performed, then the same mortgage or deed of bargain and sale, with defeazance, shall be utterly void; and the mortgagee or vendee, his heirs, executors, administrators or those claiming under him, at the request of the mortgagor, his heirs, executors or administrators, and tender of his reasonable charges therefor, shall thereupon repair to the office where such mortgage or deed of conveyance is recorded, and shall acknowledge such satisfaction and payment, to be entered in the margin of the record of such deed or mortgage, and shall sign the same, which shall be sufficient evidence of the discharge and release of such mortgage or deed, and perpetually bar all actions brought thereupon, or shall otherwise make and execute a good and sufficient quitclaim and release to the estate mortgaged or conveyed, and shall acknowledge the same before a justice of the peace; and on refusal or neglect for the space of ten days so to do, he shall be liable to make good all damages for want of such discharge or release, to be recovered by special action on the case, with treble costs of suit.

Passed February 16, 1791.

AN ACT in addition to an act, prescribing the time and mode of redeeming Real Estate mortgaged or conveyed by deed of bargain and sale, with defeazance. Passed Jan 16, 1795.

WHEREAS the remedy by action against the mortgagee, vendee, his heirs, executors or administrators, or those claiming under him prescribed by said act, when the condition of such mortgage deed or deed of defeazance hath been performed, may by reason of the insolvent condition of such mortgagee, vendee, or person claiming under him, or by reason that his person or estate may not be come at, so that the same may be attached to respond the damages in such case sustained, prove ineffectual; For remedy whereof,

Be it enacted by the senate and house of representatives, in general court convened, That whenever the condition of such mortgage deed, or such deed of defeazance hath been, or shall hereafter be fulfilled, or tender of the performance thereof hath been, or shall be duly made, it shall and may be lawful for the mortgagor, his heirs, executors, administrators, or assigns in case of the neglect, or refusal of the mortgagee, vendee, or person claiming under him, to acknowledge satisfaction and payment of such mortgage or deed, or otherwise to make and execute a deed of quitclaim and release thereof, as prescribed in said act, to petition the justices of the superior court of judicature, or any one of them, stating the conveying of such estate, the conditions and the performance of the same, or the tender of performance thereof, whereupon the justices of said court, or any one of them as aforesaid, shall direct that the adverse party be served with a copy of said petition and order thereon, or that the same be left at his last and usual place of abode, fourteen days prior to the sitting of said court, then next to be holden in said county, where such mortgaged or conveyed estate lies, or in case that the adverse party be not an inhabitant of this, or an adjoining state, then that the substance of said petition and order thereon, be published in such publick newspaper, and so many times successively as the said court or justices shall direct; and upon proof of the fulfilment of said order, the said court shall proceed to hear said petition, and if it shall appear that the condition of such mortgage deed, or that such deed of defeazance hath been fulfilled or performed, or that a tender thereof hath been duly made; the said court shall adjudge and decree the performance or tender thereof as aforesaid; an attested copy whereof being recorded in the office of the registry of deeds in the county where such mortgaged or conveyed estate lies, shall have the same force, effect and validity in law, that a quitclaim and release of such mortgaged or conveyed estate by the mortgagee, vendee, or person claiming under him, duly executed and recorded, might or could have; and whenever a tender shall be proved as aforesaid, the sum tendered shall be brought

Mortgagor
may petition
the justices
of S. C.

into court and delivered to the clerk thereof, to the use of such mortgagee, vendee, or person claiming under him as aforesaid; and in case any issue in fact upon said petition shall be had, the same shall be tried by jury, and cost may be granted, or otherwise, as the court, all circumstances considered, shall judge to be just and equitable.

The foregoing bill having passed both houses of the general court, was, on the 15th day of January, 1795, presented to the governor for his approbation and signature—On the 16th of January, 1795, it was returned by the governor to the house of representatives in which it originated with his objections—On the same day, on reconsideration, it was passed by more than two thirds of that house and was sent to the senate with the governor's objections. It was on the same day, on reconsideration, passed and approved by more than two thirds of the senate, and so became a law, January 16, 1795.



Passed Feb.
3, 1789.

AN ACT for the settling of testate Estates.

Persons seized
of lands
may devise.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That every person lawfully seized and possessed of any estate in lands, tenements or hereditaments within this state, of the age of twenty-one years and upwards, and of sane mind, shall have power to give, devise and dispose of the same, as well by his last will and testament in writing, as by any other act duly executed, to and among his or her children, or others, as he or she shall think fit. And that all devises and bequests of any estate in lands, tenements and hereditaments shall be in writing, and sealed by the party devising the same, and signed by him, or by some person in his, or her presence, and by his, or her express direction, and shall be attested and subscribed in the presence of the said devisor, by three or more credible witnesses, or else shall be void and of none effect.

Posthumous
children entitled
to a share,

SECT. 2. *And be it further enacted,* That when any child shall happen to be born after the death of the father, without having any provisions made in his will, every such posthumous child shall have right and interest in his or her father's estate, in like manner as if he had died intestate, and the judge of probate shall issue his warrant as in case of intestates, to assign to such posthumous child a share in said estate, equal to what he or she would have inherited, had the father died intestate, and the same shall be taken in proportion from the devisees and legatees who own the estate by virtue of such will.

and also such
as have no le-
gacy in their
parent's will.

SECT. 3. *And be it further enacted,* That any child, or children, or their legal representatives in case of their death, not having a legacy given him or them in the will of their fa-

ther or mother, shall have a portion of the estate of the testator assigned unto him, her or them, as though such parent had died intestate. Provided such child, children, or grand-children, have not had an equal proportion of the deceased's estate bestowed on him, her or them in the deceased's life-time. And when any person, having a devise of real or personal estate, shall die before the testator, and leave lineal descendants, such descendants shall take the estate devised in the same manner the devisee would have done, had he or she survived the testator. And the widow may waive the provision made for her in the will of her deceased husband, and have her dower assigned her in the same manner as though he had died intestate; in which case she shall have no benefit from such provision, unless it appears to have been the testator's intention, that such provision should be in addition to her dower.

SECT. 4. *And be it further enacted*, That no will or instrument in writing hereafter offered for probate, purporting a disposition of real and personal estate, not being executed with the formalities aforementioned, shall be approved or considered of validity to pass or convey any such estate or estates whatever. No will to be approved unless.

SECT. 5. *And be it further enacted*, That all such estate, real and personal, that is not devised or bequeathed in the last will and testament of any person hereafter to be proved, shall be distributed in the same manner as if it were an intestate estate, and the executor or executors shall administer the same accordingly. Estate not devised to be distributed

SECT. 6. *And be it further enacted*, That any executor or executors of the will of any person deceased, knowing of their being so named, neglecting for more than thirty days next after the decease of the testator, to cause such will to be proved, before the judge of probate for the county where the deceased person last dwelt, or to present the said will to the said judge, and in writing to declare his, her or their refusal of the trust (without just excuse made to, and accepted by the said judge for such delay) shall forfeit the sum of five pounds a month for such neglect, from and after the expiration of the said thirty days; to be recovered by action of debt in the inferior court in the same county, one moiety for him or them that shall sue for the same, and the other for the use of the legatees named in the same will. And upon any such refusal, the judge of probate shall commit administration of the estate of the deceased, with the will annexed, unto the widow or next of kin to the deceased, or one or more of the devisees; or in case of their refusal to one or more of the principal creditors, as he shall think fit. Executors to cause probate of wills to be made.

SECT. 7. *And be it further enacted*, That every executor or executrix named in any will hereafter to be proved, and taking upon him, or herself that trust by proving the Executors to give bond.

same, shall give bond to the judge of probate, with sufficient surety or sureties, to return upon oath, a true and perfect inventory of the estate of the testator, into the probate office, and to render an account of his or her proceedings thereon, in the same manner as administrators are by law obliged to do, unless such executor or executors are residuary legatees, in which case bond may be given by him, her or them, to pay the debts and legacies of the testator; and in case any executor or executors shall neglect or refuse, for the space of twenty days, to give bond as aforesaid, the judge of probate may commit administration of the estate of the testator with the will annexed, to some other person, in like manner as he may grant the same when the executor refuses the trust: and where divers persons are named executors in any will hereafter to be proved, none shall intermeddle and act as such, but those who give bond as aforesaid.

Executors becoming insane, &c. the judge to grant letters, &c. to other persons.

SECT. 8. *And be it further enacted*, That when any executor of any last will and testament, shall become insane, or otherwise incapable of discharging the trust, the judges of probate within their respective counties, observing the rules aforesaid, are hereby authorized to grant letters of administration, with the will annexed, to such person as to the said judge shall seem meet. And the administrator, thus appointed, shall have the same power and authority to administer the estate of the deceased, not administered by such former executor, and be subject to the same duties as if said executor were actually dead. And when a feme sole shall, with one or more persons be appointed executrix, and after such appointment, shall, during the life of her co-executor marry, such marriage shall not make her husband an executor in her right; but shall operate as an extinguishment of such woman's power, and the other executor or executors may proceed in discharging the trust, in the same manner as if the woman were dead. And the executor of an executor shall not in consequence thereof become the executor of the first testator; but in every such case administration may be granted (if circumstances require it) upon the goods and estate of the first testator unadministered, with the will annexed to such person or persons as the judge of probate may think fit (he observing the rules for granting administration as above mentioned) any law, usage or custom to the contrary notwithstanding.

Feme sole ex'x. marrying her power extinguished.

See act of Dec. 13, 1792.

Exr. of exr.

The judge of probate, upon application may order a division to be made among devisees.

SECT. 9. *And be it further enacted*, That when and so often as any devisee (or his or her guardian) who holds any real estate in partnership with any person or persons, by force of any last will and testament, shall make application to the judge of probate of wills in the county where the will was proved, for a division thereof, it shall and may be lawful for such judge to order the whole of the real estate so devised (or that part of it, the partition whereof is requested) to

be divided to and among the devisees according to the will of the testator, by five or three discreet freeholders, to be appointed by the said judge, notice being first given to all concerned, to be present at the making such partition, if they see cause : which partition or division being made and returned to the judge, under the hands of the committee, or the major part of them, upon oath, to their fidelity and impartiality therein, and by him approved, shall be valid in law to all intents and purposes ; unless upon the appeal of any person dissatisfied with the partition so made, the same should be reversed or altered by the superior court of judicature.

SECT. 10. *And be it further enacted,* That when any real estate devised by will, lies in common and undivided with other real estate, it shall and may be lawful for the judge of probate to order and direct the freeholders aforesaid, first to make partition between the estate devised, and any other land or real estate, lying in common therewith, in the same way and manner, as is provided for dividing intestate estates, from any other with which they may lay in common ; provided, that no partition shall be made, when the proportion of the devisees, or any of them, shall be disputable and uncertain. Provided also, that where any of the interested are minors, or persons non compos mentis, or otherwise incapacitated to take care of their estates, or out of the state, guardians shall be first appointed for such minors, persons non compos mentis or otherwise incapacitated, and some disinterested person shall be appointed by the judge to represent and act for such absent party.

When real estate lies in common, the judge may order a partition to be made.

SECT. 11. *And be it further enacted,* That the judge of probate before he allow the account of any executor relating to his executorship, shall cause the heirs of such estate to be notified, in such manner as he shall think most proper, of the time and place for examining and allowing such account.

Accounts of exrs. not to be allowed until notice be given thereof.

SECT. 12. *And be it further enacted,* That any executor being a residuary legatee, may bring his action of account against his co-executor or executors of the estate of the testator in their hands ; and may also sue for, and recover his equal and rateable part thereof ; and any other residuary legatee shall have like remedy against the executors.

Co-executors remedy against each other.

SECT. 13. *And be it further enacted,* That all writs of attachment and execution, shall run only against the goods or estate of the party deceased, in the hands of the executor, and not against his body ; nor shall any executor be held to special bail upon mesne process, nor his own proper goods or estate be seized, or his person be arrested or taken in execution for the debts or legacies of the testator ; but upon a suggestion of a waste, and return made by the sheriff nulla

Executors exempted from personal arrests.

Remedy for waste.

bona, or devastavit, in which case a scire facias shall be issued out of the clerk's office of the same court against such executor; and scire feci being returned, if the executor shall make default of appearance, or coming in, shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him, of his own proper goods and estate to the value of such waste, where it can be ascertained, and otherwise for the whole sum recovered, and for want of goods or estate, against his body.

Executors to
pay debts in
specie.

SECT. 14. *And be it further enacted*, That every executor shall make payment of the debts and legacies of the testator in specie, if such he hath, as assets in his hands; and if he hath not the same, he shall expose the estate to the creditors and legatees, to take their satisfaction thereof at their election; the value of such estate to be ascertained by appraisers mutually chosen and sworn. And where judgment and execution shall be awarded for any legacy, or for a debt due from the testator, the same proceedings shall be had thereon, as the law does, or may hereafter direct for levying and satisfying executions in other cases.

Right of ap-
peal.

SECT. 15. *And be it further enacted*, That any person aggrieved at, or dissatisfied with any decree, sentence or order of any judge of probate by virtue of this act made, shall have right to appeal therefrom, to the superior court of judicature, provided such appeal be claimed within sixty days next after the making such decree, sentence, order or denial, and giving bond in a reasonable sum with sufficient sureties, to prosecute said appeal with effect, and to pay costs in case such decree, sentence, order or denial shall be confirmed.

Decrees, &c.
reversed—
cost to be tax-
ed for the
appellant.

SECT. 16. *And be it further enacted*, That if any such decree, sentence, order or denial, shall, upon such appeal, be reversed or altered by said superior court, cost shall be taxed for the appellant.

In case of an
appeal, notice
to be given.

SECT. 17. *And be it further enacted*, That in case of an appeal being taken, the person appealing shall immediately give notice in one of the New-Hampshire newspapers, of the appeal having been claimed and allowed, and of the term at which said appeal is to be entered for trial.

Repealing
clause.

SECT. 18. *And be it further enacted*, That the act, entitled, "An act relating to executors and administrators," be, and hereby is repealed: provided, nevertheless, that all proceedings already had by virtue of said act, shall be good and valid, and all orders and decrees of any judge of probate, in pursuance thereof, shall be carried into effect in the same manner, as though said act had not been repealed.

Provided always, That nothing in this act contained, shall be construed to affect nuncupative wills, as provided for by a law of the late province.

Passed February 3, 1789.

AN ACT relative to the attestation of Wills.

Passed Feb.
16, 1791.[Sept. 15,
1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, which is not proved by the oaths of three or more witnesses, who were present at the making thereof; nor unless it be proved, that the testator at the time of pronouncing the same, did bid the persons present, or some of them, bear witness that such was his will, or to that effect; nor unless such nuncupative will be made in the time of the last sickness of the deceased, and in the house of his or their habitation or dwelling; or where such person hath been resident for the space of ten days or more next before the making such will: except where such person was surprised or taken sick, being from his own home, and died before he returned to his dwelling.

Nuncupative
wills.

SECT. 2. *And be it further enacted*, That after six months, passed from the speaking the pretended testamentary words, no testimony shall be received to prove any nuncupative will, except said testimony, or the substance thereof be committed to writing within six days after making said will.

Testimony to
prove them to
be reduced to
writing.

SECT. 3. *And be it further enacted*, That no letters testamentary or probate of any nuncupative will, shall pass the seal of any court until fourteen days at least, after the decease of the testator; nor shall any nuncupative will be received to be proved, unless process hath first issued to call in the widow or next of kindred to the deceased, to the end they may contest the same if they please.

Probate of
nuncupative
wills.

SECT. 4. *And be it further enacted*, That no will in writing concerning any goods and chattels, or personal estate, shall be repealed or revoked, nor shall any clause, devise, or bequest therein be altered or discharged by any words, or will by any word of mouth only, except the same be in the life time of the testator committed to writing, and read to him, and be proved so to be done, by three witnesses at least.

No written
will of personal
estate
to be revoked
but by
writing.

Provided always, Any soldier being in actual military service, or any mariner or seaman, being at sea, may dispose of his moveables, wages and personal estate, as he might have done before the making this act.

And for removing doubts in the attestation of wills,

SECT. 5. *Be it further enacted*, That if any person shall attest the execution of any will or codicil, to whom any beneficial devise, legacy, estate, interest, gift or appointment of, or affecting any real or personal estate, other than and except charges on lands, tenements and hereditaments for the payment of any debt or debts, shall be thereby given, or made, such devise, legacy, estate, interest, gift or appointment, shall, so far only, as concerns such person attesting the

Devisee attes-
ing, the de-
vise void, but
he admitted
to prove the
will.

execution of such will or codicil, or any person claiming under him, be utterly null and void ; and such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such will or codicil.

Creditor at-
testing, ad-
mitted to
prove the
will.

SECT. 6. *And be it further enacted,* That when any lands, tenements or hereditaments, are in any will or codicil charged with the payment of debts, and any creditor whose debt is so charged, hath attested the execution of such will or codicil, such creditor notwithstanding, shall be admitted and deemed a legal witness to the attestation of such will or codicil.

Legatee being
paid or refus-
ing his legacy
admitted to
prove the
will.

SECT. 7. *And be it further enacted,* That when any person hath attested the execution of any will or codicil, to whom any legacy is thereby given, whether charged upon lands, tenements or hereditaments or not, and such person having been paid, or having accepted, released, or having refused to accept, upon tender thereof made, such person shall be admitted and deemed a legal witness to the execution of such will or codicil.

Refusal of a
legacy shall
bar the lega-
tee.

SECT. 8. *And be it further enacted,* That in case of such tender and refusal as aforesaid, such person shall not be entitled to such legacy or bequest, but be barred therefrom. And in case of such acceptance as aforesaid, such person shall retain to his own use the legacy or bequest so paid and accepted, notwithstanding such will or codicil, shall afterwards be adjudged or determined to be void for any defect whatever.

Legatee attes-
ting and dy-
ing consider-
ed as a legal
witness.

SECT. 9. *And be it further enacted,* That in case any such legatee as aforesaid, who hath attested the execution of any will or codicil, shall have died in the life time of the testator, or before he shall have received or released the legacy or bequest so given him ; and before he shall have refused to receive such legacy or bequest, on tender thereof made ; such legatee shall be deemed a legal attesting witness to the execution of such will or codicil.

Credit of wit-
nesses to be
considered.

Provided always, That the credit of every witness attesting any will or codicil, in any of the cases mentioned in this act, and all circumstances relating thereto, shall be subject to the consideration and determination of the court or jury before whom any such witness shall be examined, or his testimony or attestation made use of, in like manner as the credit of witnesses in all other cases ought to be considered of and determined.

Devisee or le-
gatee attest-
ing shall not
after examin-
ation receive
any compensa-
tion.

SECT. 10. *And be it further enacted,* That no person to whom any beneficial estate, interest, gift or appointment, shall be given or made, which is hereby enacted to be null and void as aforesaid ; or who shall have refused to receive any such legacy or bequest, on tender made as aforesaid, and who shall have been examined as a witness concerning the execution of such will or codicil, shall, after he shall

have been so examined, demand or take possession of, or receive any profits or benefits of, or from any such estate, interest, gift or appointment so given or made to him, in or by any such will or codicil, or demand, receive or accept from any person or persons whatsoever, any such legacy or bequest, or any satisfaction or compensation for the same, in any manner, or under any colour or pretence whatsoever.

Passed February 16, 1791.

AN ACT for the filing and recording of wills proved without this state, and for the taking of affidavits in writing for the probate of wills in certain cases. Passed Jan. 22, 1790.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That where the copy of any will, which has been proved and allowed in any probate court in any of the United States, or in any foreign state or kingdom, shall be directed to be filed and recorded in any probate court in this state, pursuant to the laws thereof, the filing and recording thereof shall be of the same force and effect as the filing and recording of an original will, proved and allowed in the same court of probate, and the said judge may thereupon proceed to take bond of the executor or executors, or grant administration of the said testator's estate, lying in this state, with the will annexed, and settle the said estate in the same way and manner, as by law he may, or can upon the estates of testators, whose wills have been duly proved before him.

Copy of a will filed and recorded to have force and effect.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That when the executor, or any other person interested in a will, that has been proved and allowed in a court of probate, in any of the United States, or in a court of probate in any other state or kingdom, pursuant to the laws of such state or kingdom, shall produce a copy of such will, with a copy of the probate thereof, duly authenticated, unto any judge of probate in any county of this state, where the testator had estate, real or personal, whereon the said will may operate, and shall in writing desire the same may be filed and recorded in the probate office, in the same county, pursuant to this statute, the said judge shall assign a time and place for taking the same into consideration, and shall cause notice thereof to be made in some publick newspaper in this state, three weeks successively, thirty days at least before the time assigned, to the end, that any person may appear and shew cause against the filing and recording of the same.

An executor producing a copy, &c. the judge to assign a time & place for consideration.

And if at the time assigned, no objection is made, or none in the judgment of said judge sufficient to prevent it, the said judge may cause the same copy to be filed in the registry of the court of probate, and cause the same to be

recorded in said office ; saving always an appeal, to any person apprehending himself injured thereby, to the supreme court of probate as in other probate matters.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That when an original will shall be offered for probate before any court of probate in this state, and the witnesses thereto live out of the state, or more than thirty miles distant, or by reason of age or indisposition of body, are unable to appear and give evidence before the court, in every such case, the deposition of such witness in writing, taken before any person or persons duly authorized by *dedimus potestatem* from such probate court, shall have the same force and effect as though the witness was present and testified *viva voce*, before the court.

Provido. *Provided always,* That before any will shall be proved and allowed upon the evidence of such affidavits, the same notice shall be given as the law in other cases for the probate of wills requires, that any person interested in the same will, may have an opportunity of being present and offering his reasons why the same should not be allowed. And the parties shall have the same right of appeal, in the case before mentioned, as in other cases before the probate court.

Passed January 22, 1790.

Passed June 23, 1813. **AN ACT** *establishing the times and places of holding the Probate Court in the county of Grafton.*

SECT. 1. **B***E it enacted by the senate and house of representatives, in general court convened,* That the probate court, within and for the county of Grafton, shall hereafter be holden at Haverhill, on the third Tuesday in May, and the last Tuesday in February ; at Plymouth, on the second Tuesday in September, and the first Tuesday in November ; at Hanover, on the first Tuesday in June ; at Bath, on the first Tuesday in April ; at Bridgewater, on the first Tuesday in January ; and at Enfield, on the first Tuesdays in March, July, August, October, and December, annually.

SECT. 2. *And be it further enacted,* That it shall be the duty of the judge and register of probate, within and for the county of Grafton, to attend at the several times and places mentioned in the preceding section for holding said probate court ; and the judge of said court may adjourn the same from day to day, as he may consider necessary.

Approved June 23, 1813

AN ACT ordering the descent of intestate estates, and empowering the judge of probate to settle the same accordingly. Passed Feb 3, 1789.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That when any person shall die seized of lands, tenements or hereditaments, within this state, not by him devised, the same shall descend in equal shares among his children, and such as legally represent such of them as may be dead. And where there are no children or child of the intestate, the inheritance shall descend equally to the next of kin in equal degree, and those who represent them. No person to be admitted as a legal representative of collaterals, beyond the degree of brothers' and sisters' children. Rules of descent.

And when any of the children of an intestate die before twenty-one years of age, and unmarried, such deceased child's share shall descend among the surviving brothers and sisters, and such as legally represent them; but if such child die, after having arrived to the age of twenty-one years, unmarried, and intestate, in the life time of the mother, she shall inherit equally with every brother and sister.

Provided always, That in case any person's dying intestate, after marriage or arrival to twenty-one years of age, without lawful issue, living the father, the whole estate of such intestate shall go to the father, reserving to the widow as is herein after provided. And in case the mother be living, and no father at the time of such decease, she shall be entitled to an equal share of the estate with the brothers and sisters of the intestate and their legal representatives.

SECT. 2. *And be it further enacted,* That when any person shall die, possessed of any chattels or personal estate not bequeathed, the same shall be distributed in the manner real estates descend by this act. Distribution of personal estate.

Provided, nevertheless, That such chattels, or personal estate shall stand chargeable with the payment of the debts and funeral charges of the deceased; and after payment thereof, the judge of probate shall decree one third part of the surplusage (if any there be) to the widow of the deceased forever, unless he died without issue, in which case she shall have one half thereof forever. And where the personal estate shall be insufficient to pay the said debts and funeral charges, the widow shall be entitled to her apparel, and such other of the personal estate, as the judge of probate shall think necessary, according to her quality and degree. And the real estate shall stand chargeable with the debts of the deceased over and above what the personal estate shall be sufficient to pay. Personal estate chargeable with debts. Personal estate insufficient, the real estate to be chargeable.

SECT. 3. *And be it further enacted,* That the widow of any deceased person, shall in all cases, be entitled to her The widow entitled to dower in the real estate.

dower in his real estate (where she shall not have been otherwise endowed before marriage) and may recover the same as the law directs.

Administration how to be granted.

SECT. 4. *And be it further enacted*, That after the decease of any person intestate, the judge of the probate of wills for the county wherein such person was last an inhabitant, shall grant administration of the intestate's estate unto the widow, or next of kin to the intestate (upwards of twenty-one years of age) or to both, as the said judge shall think best, within thirty days. And an inventory of all the estate of the deceased, shall be taken within three months, by three suitable persons appointed for that purpose, and sworn before the judge, or a justice of the peace, to their fidelity and impartiality therein.

Administration to be granted to creditors, in case.

And after the expiration of thirty days from the death of any person intestate, if the widow or next of kin neglect to apply for administration, the said judge shall cause them to be cited to take the same, and if they neglect or refuse to administer accordingly, he shall grant administration to one or more of the principal creditors, or others on their refusal, as he shall think proper. And every administrator shall, before he or she enters upon the execution of that trust, give bond to the judge of probate, with sufficient sureties in a reasonable sum, upon condition among other things to return to the said judge a true inventory of the deceased's estate upon oath, within three months from the date of the bond, to administer said estate according to law, and to render to the judge of probate a just and true account of administration within one year. And after payment of debts, funeral expenses and charges incurred in settling any estate (to be allowed by the said judge) he shall cause the residue to be divided, and partition thereof to be made among the widow, children and grand children, or heirs, as this act directs, unless any of them have had estate of the intestate in his life time, or been advanced in settlement, which shall be taken into consideration and allowed for a share, or deducted from it according to the value thereof.

Administrators to give bond.

Advancement.

And any deed of lands or tenements made for love or affection, or where any personal estate delivered a child shall be charged in writing, or by his or her order, or a memorandum made thereof, or delivered expressly for that purpose, before two witnesses, who were bidden to take notice thereof, the same shall be deemed and taken as an advancement to such child or children to the value thereof, within the intent of this act.

Five freeholders to make distribution.

And the judge of probate shall appoint five freeholders to make distribution of the real estate of any intestate, which being made and returned to the judge under their, or the major part of their hands, upon oath to their fidelity and impartiality therein, and accepted and allowed by the said judge, shall be valid. And the dower of widows in

intestate estates that are solvent, after the expiration of their term therein, shall be distributed in like manner among the heirs.

Provided, nevertheless, That the surplusage of every intestate estate, after the payment of debts and charges as aforesaid, shall be subject to the support of each child, until he or she shall arrive to the full age of seven years, and after that age, each child shall receive his or her support out of his or her particular share; the account of said support to be allowed by the judge of probate. And every one to whom any share of any intestate estate shall be allotted, shall give bond to the judge to pay to the administrator, his or her rateable proportion of any debts, that shall afterwards be made to appear against said estate, and of the charges of administration, and maintenance and support of the children under seven years of age.

Each child to be supported out of surplusage till seven years of age.

SECT. 5. *Provided further, and it is enacted,* That where any real estate of an intestate cannot be divided among all the children, or their legal representatives, without great prejudice to, or spoiling the whole, and being so represented and made to appear to the judge of probate, he may decree the whole to the oldest son, if he will accept it, or to the oldest and any other of the sons who shall agree to accept it, or to any one or more of the sons successively, and upon their refusal, or if there be no sons, to the oldest daughter, or upon the oldest and any other of the daughters who will accept it, or on any one or more of them successively; and in case the intestate left no issue, upon any one or more of the collaterals in equal degree, preference being given to the male heirs; he, she or they paying to their co-heirs their proportionable shares of the true value thereof, upon an impartial appraisement of the same, to be made by three freeholders, under oath, appointed for that purpose by the judge of probate, or giving good security to pay the same at such periods as the judge shall limit, with interest till paid.

Real estate may be decreed to the oldest son when it cannot be divided without damage.

SECT. 6. *And be it further enacted,* That the judge of probate may, upon application of any heir to any intestate estate, order his or her dividend or proportion of the real estate to be distributed and set off to such heir, by a committee of five freeholders as aforesaid, he or she giving bond with sufficient sureties, to pay his or her rateable part of the debts, charges of administration, and maintenance of children under seven years of age, as aforesaid.

The judge may order the share of any heir to be set off.

SECT. 7. *And be it further enacted,* That when any tract of land, messuage, or other tenement, shall be of greater value than either party's part or share in the estate to be divided, and cannot be sub-divided, or part thereof assigned to one, and part to another (without injury or inconvenience) the same may be settled or

When any tract of land, is of greater value than the share of any heir, the

same may
be assigned
to such heir
he paying, &c.

assigned to one of the parties, such party paying such sum or sums of money, to the party or parties, as by means of the assignment, shall have less than their share of the real estate, as the committee appointed to make partition shall award.

Real estate in
common or
undivided
how to be
severed or di-
vided.

SECT. 8. *And be it further enacted*, That the respective judges of probate within this state, be, and hereby are directed and empowered, when they make out their warrants for the division of the real estate of any person dying intestate, to and among the heirs, or for assigning the widow's dower where such estate, or any part thereof, lies in common or undivided with the real estate of any other person, to direct the committee named in such warrant, first to sever and divide the intestate's estate from the estate with which it lies in common as aforesaid; the said committee to give timely notice to all parties interested to be present, if they see cause; and such division so made and accepted by the judge, and recorded in the probate office for the same county, shall be binding upon all parties interested.

Guardians to
be appointed.

Provided that where any minors, persons non compos, or otherwise incapacitated to take care of their estates, are interested in either of the estates, guardians shall be appointed over them. And if any person interested is out of this state, the judge shall appoint some discreet person to represent and act for such absent party, before such division is made.

Before parti-
tion, the par-
ties to be no-
tified.

Provided also, That before the order for such partition or severance be issued, it be made to appear to the judge of probate, that the several persons, interested in such estate, if living within this state, or the attorney of such as are absent and have attornies within the state, have been notified of such partition, and have had opportunity to make exceptions to the same.

Partition be-
ing made, a
party refusing
to pay his pro-
portion, the
judge may is-
sue his war-
rant of dis-
tress.

SECT. 9. *And be it further enacted*, That when division of any intestate estate, or partition of such estate, lying in common with the estate of any other person, shall be caused to be made by any judge of probate, according to the method before prescribed, and any of the parties interested shall neglect or refuse to pay their just proportion of the charge which may attend such division or partition, it shall and may be lawful for the judge to issue a warrant of distress, against any delinquent or delinquents interested as aforesaid, provided an account of such charge be first laid before the judge, and the just proportion of each party interested, be by him settled and allowed, they having been notified to be present at such settlement and allowance.

Administra-
tors account-
able for per-
sonal estate.

SECT. 10. *And be it further enacted*, That every administrator shall be held to account with the judge of probate, for the personal estate of the deceased, as the same

shall be appraised, unless the judge shall order the same, or any part thereof, to be sold at publick auction, or private sale, as he shall think will best serve the interest of all concerned; and the administrator shall account for the same accordingly.

SECT. 11. *And be it further enacted,* That when any man and his wife shall be seized of any real estate in her right, in fee simple, and issue shall be born alive of the body of such wife, that may or might inherit the same, and the wife die, the husband shall have and hold such estate during his life, as tenant by curtesy; any thing in this act to the contrary notwithstanding.

Tenancy by curtesy.

SECT. 12. *And be it further enacted,* That when any person shall die intestate, having estate in several counties in this state, administration thereof shall be granted of the whole, by the judge of probate in the county where the deceased was last an inhabitant.

Where administration shall be granted

And in case of a person's dying intestate, who was not an inhabitant of this state, but possessed of real or personal estate within the same, at that event, administration of the same shall be granted by the judge in the county where the greatest part thereof shall happen to be.

SECT. 13. *And be it further enacted,* That when application shall be made to any judge of probate for license to sell any intestate estate, or any part thereof, for the payment of the demands against the same, before he grants such license, he shall cause the heirs to said estate, or their guardians to be notified thereof, and at what time and place they may be heard concerning the same. And if they will give bond with sufficient sureties for the payment of said demands, license shall not be granted; otherwise the judge shall grant license to sell so much as to him shall appear necessary, at publick auction. And the administrator or administrators, shall upon taking the license, or previous to the sale, take the following oath:

Heirs or guardians to be notified before license is granted for sale.

I, A. B. do solemnly swear, that in disposing of the estate of C. D. late deceased, or such part thereof as I have license to sell, I will use my best judgment in fixing on the time and place of sale, and will exert my utmost endeavours that the same shall be sold in such manner, as will be of the greatest advantage to the heirs of said estate, and that without any sinister or selfish views whatever.

Oath

And if such oath be taken before a justice, the administrator shall return a certificate thereof from the justice to the judge, before he allows the administrator's account.

SECT. 14. *And be it further enacted,* That if any person or persons, before taking administration of any intestate estate, shall embezzle or alienate any of the goods or chattels belonging to such estate, every such person shall stand chargeable, and be liable to the actions of creditors or other per-

Executors in their own wrong.

sons grieved, as being executors in their own wrong, to double the amount or value of the articles so alienated or embezzled.

Persons suspected of embezzlement to be examined on oath.

SECT. 15. *And be it further enacted*, That each judge of probate in his county, be, and hereby is fully empowered to call before him, and to examine upon oath, any person suspected and complained of by any executor or administrator, heir, creditor, legatee or other person having lawful right or claim to the estate of any person deceased, to have concealed, embezzled or conveyed away any of the money, goods or chattels of the deceased, for discovery of the same. And if the person suspected and complained of, refuses to appear before the said judge, or appearing, refuses to be examined, or to answer interrogatories upon oath, respecting said estate, it shall and may be lawful for, and the said judge is hereby empowered to commit such person so refusing, unto the common gaol of the county, there to remain until he or she shall consent to be examined, and answer interrogatories as aforesaid, or be released by the complainant, or by order of the superior court of judicature.

Administration de bonis non.

SECT. 16. *And be it further enacted*, That each judge of probate within this state, in his county, shall have power, and is hereby authorized to grant administration de bonis non, when an administrator shall be dead or absconded, or become non compos mentis, or be otherwise incapacitated to carry on the administration, not having settled the estate.

Heirs, &c. to be notified when acc'ts are exhibited for allowance.

SECT. 17. *And be it further enacted*, That each judge of probate, before he makes a decree of allowance of the account of any administrator of an intestate estate, shall cause a major part of the heirs to such estate, or their guardians, to be notified that such account is exhibited, and when and where they may be heard thereon.

Creditors excluded who do not bring in their claims.

See act of Jan. 4, 1792.

SECT. 18. *And be it further enacted*, That in case any creditors to any estate shall neglect to exhibit his or her demand against said estate, to the executor or administrator, within the term of two years next after proving the will, or taking administration, if such creditor is an inhabitant of this state, or within three years, if living out of this state, such demand shall be extinguished, and the creditor totally barred from recovering the same—saving to persons in captivity, a further allowance of one year after the impediment is removed.

One administrator may bring an action of account against another.

SECT. 19. *And be it further enacted*, That where two or more persons administer on any intestate estate, and one or more of them take the greatest part of the estate into his, her or their hands, and refuse or neglect to pay the debts and funeral charges of the intestate, or refuse to account with the other administrator, he or she may bring an action of account against the other administrator or administrators, and recover his or her proportionable part of such estate.

SECT. 20. *And be it further enacted*, That nothing in this act shall affect any settlement or distribution of any estate heretofore made within this state.

Former settlements not affected by this act.

And any person aggrieved at, or dissatisfied with any decree, sentence or order of any judge of probate, by virtue of this act made, shall have right to appeal therefrom, to the superior court of judicature: Provided such appeal be claimed within sixty days next after the making such decree, sentence, order or denial, and giving bond in a reasonable sum with sufficient sureties, to prosecute said appeal with effect; and to pay costs, in case such decree, sentence, order or denial, shall be confirmed.

Right of appeal.

SECT. 21. *And be it further enacted*, That if any such decree, sentence, order or denial shall, upon such appeal be reversed or altered by the supreme court of probate, cost shall be taxed for the appellant.

Decree reversed, cost to be taxed for the appellant.

SECT. 22. *And be it further enacted*, That in case of an appeal being taken, the person appealing shall immediately give notice, in one of the New-Hampshire newspapers, of the appeal's having been claimed and allowed, and of the term at which said appeal is to be entered for trial.

Notice to be given of an appeal.

SECT. 23. *And be it further enacted*, That all writs of attachments and executions shall run only against the goods or estate of the party deceased, in the hands of the administrator, and not against his body; nor shall any administrator be held to special bail upon mesne process, nor his own proper goods or estate be seized, or his person arrested or taken in execution for the debts of the intestate, but upon suggestion of a waste and return made by the sheriff, nulla bona, or devastavit, in which case a scire facias shall be issued out of the clerk's office of the same court against such administrator; and scire feci being returned, if the administrator shall make default of appearance, or coming in, shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him of his own proper goods and estate, to the value of such waste, where it can be ascertained, and otherwise for the whole sum recovered, and for want of goods or estate against his body.

Administrators exempted from personal arrest.

SECT. 24. *And be it further enacted*, That every administrator shall make payment of the debts of the intestate in specie, if such he hath, as assets in his hands, and if he hath not the same, he shall expose the estate to the creditor, to take his satisfaction thereof at his election, the value of said estate to be ascertained by appraisers mutually chosen and sworn. And where judgment and execution shall be awarded for any debt due from the intestate, the same proceedings shall be had thereon, as the law doth or shall hereafter direct, for levying and satisfying executions in other cases.

Administrators to pay debts in specie.

SECT. 25. *And be it further enacted*, That the several judges of probate in their respective counties in this state, when and so often as there shall be occasion, be, and here-

Judge of probate to appoint guardians.

by are empowered to allow of guardians, that shall be chosen by minors of fourteen years of age and upwards, and to appoint guardians for such as shall be within that age, taking sufficient security of all such guardians, for the faithful discharge of their trust according to law, and to account, either to the judge or minor, when such minor shall arrive at full age, or at such other time as the judge upon complaint to him made, shall see cause.

Repealing
clause.

SECT. 26. *And be it further enacted*, That the act, entitled, an act for the settlement and distribution of the estates of intestates, be, and hereby is repealed.

All former
proceedings
to be good
and valid.

Provided, nevertheless, That all proceedings already had, by virtue of said act, shall be good and valid, and all orders and decrees of any judge of probate in pursuance thereof, shall be carried into effect in the same manner as though the same had not been repealed.

Passed February 3, 1789.

Passed Jan. 4, 1792. *AN ACT in addition to an act, entitled, "An act ordering the descent of intestate estates, and empowering the judges* of probate to settle the same accordingly."*

WHEREAS no provision is made in and by said act, for the speedy settlement of the estates of such persons as had deceased, and whose estates were then under the administration of their executors or administrators, and not completed. And it being necessary that a time should be limited for creditors to exhibit their claims against such estates;

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That no action shall be commenced or sustained for the recovery of any debt or other demand by contract, or breach of covenant, due from any testator or intestate (who at the time of his decease was a citizen of this state) against his executor or administrator, by any citizen or citizens of this state, after the expiration of two years, nor by any other person or persons, after the expiration of three years from and after the passing of this act.

Passed January 4, 1792.

* Judges in the original, by mistake for Judge.

Passed Dec. 13, 1792. *AN ACT in addition to an act, entitled, "An act, for settling testate estates," and in addition to an act entitled, "An act ordering the descent of intestate estates, and empowering the judge of probate to settle the same accordingly."*

An executrix
or administratrix
marrying, shall not
make her
husband an
executor in
her right.

BE it enacted by the senate and house of representatives, in general court convened, That if any executrix or administratrix hereafter appointed, shall marry during the con-

tinuance of her trust, such marriage shall not make her husband an executor or administrator in her right, but shall operate as an extinguishment of such woman's power. And the judge to whom the probate of the will or granting the administration shall belong, shall grant administration of the goods not administered, or with the will annexed, if circumstances require it, to the husband of such executrix or administratrix, or to such person as would be entitled to the same in case of her death.

Judge of probate may grant administration to the husband.

Passed December 13, 1792.

AN ACT in addition to an act, entitled, "An act in addition to an act, entitled, an act for settling testate estates, &c." made and passed Dec. 13, 1792.

Passed Nov 30, 1804.

WHEREAS in and by said act the marriage of an executrix or administratrix during the continuance of her trust operates as an extinguishment of her official capacity; and whereas it often happens that actions against an executrix or administratrix which have been of necessity pending in court a long time are defeated by such marriage, whereby the collection of just debts is delayed, and the costs of suit can never afterwards be recovered; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That when any action against or in favour of an executrix or administratrix is defeated or discontinued by her marriage, during the continuance of her trust, such action may be revived by scire facias after the appointment of an administrator de bonis non, either by the administrator de bonis non or the adverse party, and the costs of suit accrued under the former administration shall follow the issue of the revived action.

Approved November 30, 1804.

AN ACT empowering the judge of probate to grant license to sell real estate in certain cases.

Passed Feb 15, 1791.
[Sept. 15, 1792.]

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That* where the personal estate of any person deceased, shall not be sufficient to answer the just debts, which the deceased owed, and legacies given, the judge of probate is hereby empowered to license and authorize the executors or administrators of such estate to sell so much of the real estate of the deceased, as will satisfy the just debts, which the deceased owed at the time of his death, and legacies bequeathed by his last will and testament. And every executor or administrator being so licensed and authorized, shall and may by virtue of such authority make and execute in due form of law, good and valid conveyance of the estate so sold to the purchaser or purchasers, their heirs and assigns forever.

Judge to grant license to sell real estate

Judge may give leave to sell the whole.

SECT. 2. *And be it further enacted*, That when it shall appear to the judge of probate on any application for leave to sell any such real estate, for either of the causes before mentioned, that a part of such real estate will be sufficient for said puposes; and that selling such part and not the whole, would be very injurious to the persons interested in such estate, the said judge notifying all concerned to appear and shew cause to the contrary, and upon no sufficient cause to the contrary being shewn, shall and may give leave to sell the whole.

Must take bond.

And the said judge may previous to granting such leave, take bond of the executor or administrator, to account for the proceeds of such sale; and after such debts or legacies are paid, the residue shall be to the use of those in whom the property of such real estate so sold was. And where such persons are minors, the said judge may order the executor, administrator or guardian of such minors, to put such money out at interest for the benefit of such minors, taking sufficient security for the same.

How administrator shall account for personal estate.

SECT. 3. *And be it further enacted*, That no administrator shall be obliged to account with the judge of probate for the appraised value of any personal estate, if such administrator shall produce the personal estate so appraised.

Passed February 15, 1791.



Passed Dec. 15, 1797.

AN ACT for the conveyance of Real Estate in certain cases.

WHEREAS it may often be necessary that the representatives of persons deceased be enabled to perform the engagements entered into by such deceased person for the transfer of real estates:

Judge of probate to grant license to convey, in certain cases.

SECT. 1. *Be it therefore enacted by the senate and house of representatives, in general court convened*, That whenever it shall be represented by petition to the judge of probate for the county where such deceased person last dwelt, by his or her executor or administrator, or by any person or persons contracted with by bond, covenant or other written contract, that a deceased testator or intestate, in his or her life time, entered into such bond, covenant or contract to convey real estate, but was prevented by death; and that such person or persons contracted with as aforesaid, have on his, her or their part performed, or stand ready to perform the conditions of such contract made with the deceased, the said judge shall assign a time and place for taking the same into consideration, and shall cause notice thereof to be made in some publick newspaper in this state, three weeks successively, thirty days at least before the time assigned; and if at the time assigned no objection is made, or none in the judgment of the said judge sufficient to prevent it, he may grant license, and empower the executors or administrators

of such deceased person to make and execute such conveyance or conveyances to the person or persons contracted with as aforesaid, as such deceased person if living would be obliged to make and execute, which conveyance or conveyances being duly executed and recorded according to law shall be good and valid, and the monies or consideration paid for such estate, if not paid to the deceased in his life time, shall be assets in the hands of such executors or administrators, and be apportioned as other personal estate.

SECT. 2. *And be it further enacted*, That any person conceiving himself aggrieved by any order, sentence or decree, made by any judge of probate in pursuance of this act, may appeal from such order, sentence or decree, to the superior court of judicature, subject to the same conditions and restrictions as appeals in other cases from the judge of probate are, or hereafter may by law be allowed.

Appeal.

Approved December 15, 1797.

AN ACT to authorize the superior court to empower guardians to sell the real estate of their wards.

Passed Dec. 24, 1795.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the superior court of said state, be, and hereby is authorized to empower the guardian of any minor, idiot, lunatic or distracted person, to sell and convey the real estate of his ward whenever the sale thereof shall be necessary to the support, or conducive to the interest of his said ward. Provided that a petition for that purpose shall be entered by such guardian at the said court whilst sitting in the county where said real estate shall be.—And no judgment shall be rendered on said petition before there shall be one continuance thereof, and publick notice of the same given by said court to all persons concerned :—That such guardian shall be under oath (which oath shall be administered by the clerk of said court) that he will sell said estate in such a manner as in his opinion shall be most beneficial to his ward. And if the said estate shall be sold at publick auction, the sale thereof shall be in the same county, and at some publick place on or near the premises.

S. C. to empower guardians, &c.

SECT. 2. *And be it further enacted*, That every judge of probate in said state, whenever he shall appoint a guardian to any minor, idiot or lunatic, or distracted person, shall take of said guardian sufficient caution to account with him for all the profits which shall arise from the sale of real estate, in the same manner as guardians are now holden by law to account with him for personal estate. And that no guardian shall sell any real estate by virtue of this act until such caution be given.

Judge of probate to take bond to account.

Approved December 24, 1795.

Passed Feb.
11, 1791.
[September
15, 1792.]

AN ACT for the equal distribution of Insolvent Estates.

Insolvent es-
tates to be
equally dis-
tributed.

Debts enti-
tled to prior-
ity.

To be repre-
sented insol-
vent, &c.

Advertise-
ment, &c.

Time allowed
for exhibiting
claims.

Widow's
dower; rever-
sion to be sold.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That when the estate of any person deceased shall be insolvent, and insufficient to pay all the just debts which the deceased owed, the estate shall be distributed among the creditors in proportion to the sums to them respectively due; saving that all rates and taxes, and debts due to the state, and debts due for the last sickness, and the necessary charges for the burial of the deceased, shall be first paid; and the order of such payment shall be, first, the expenses of the funeral, then the charges of the last sickness, then the rates and taxes, and lastly, the debts due to the state.

And the executor or administrator of any such insolvent estate, shall, before the payment of any debts (except as aforesaid) represent the condition and circumstances of such estate, as far as hath come to his knowledge, unto the judge of probate; and if it shall appear to the judge, that such estate is insolvent, he shall appoint two or more persons to receive, examine and adjust all claims of the creditors to any such estate; and the commissioners shall cause the times and places of their meeting to receive, examine and adjust such claims, to be made known by posting up an advertisement or notification thereof, in the town or place where the deceased last dwelt, and in the two adjacent towns, and also in the shire town or towns in the same county; or shall cause the same to be printed in some publick newspaper, that shall be most likely to give information to all concerned; or if the judge should, considering the circumstances of any such estate, and the situation of the creditors thereto, order all the notice before mentioned, or any further and additional notice to be given, then the said commissioners shall notify in such manner as the judge shall order, which manner of notifying shall always be expressed in the commission of insolvency that shall issue to the commissioners; and six months, or such further time or times (not exceeding eighteen months in the whole) as the said judge, considering the circumstances of any such estate, may order, shall be allowed the creditors to any such estate, to bring in and support their claims or demands against such estate, to the commissioners; and at the end of the time limited for bringing in claims, the said commissioners shall make report to the judge, and present on oath a list of all the claims by them allowed, and shall in such report particularly state how they have notified the creditors, and shall produce to the judge satisfactory evidence of their having so notified; and the judge shall allow them a reasonable sum for their services, which shall be paid out of the estate; and if there be any widow, her dower in the houses and lands shall be set off according to law, and the real estate with the reversion of her

dower (if the judge shall think most for the benefit of the creditors, that the reversion of the widow's dower should be sold with the rest of the real estate) shall be sold according to law, unless any creditor will take it at the appraisal. And the allowance made to the commissioners as aforesaid, all the costs and charges of administering, rates and taxes due from such estate, debts due to the state, and debts due for the last sickness and funeral charges as before provided, and such reasonable sum out of the personal estate, as the judge may think proper to allow to the widow for her support, being deducted, the judge shall order and decree the residue of such estate to be divided among the creditors, in proportion to their demands, allowed and adjusted as aforesaid, or otherwise by judgment at law; and in such decree the judge shall declare and state that the creditors have been notified according to his order; and such decree shall always forever after, be considered sufficient evidence of that fact in all matters or causes where the same may be drawn in question: and if the reversion of the widow's dower was not sold with the other real estate, it shall at the expiration of her term, be sold and divided as before mentioned, and the like shall be done with any estate of the deceased, that may come to the hands of the executors or administrators at any time after the first distribution.

Allowance to the widow, residue to be divided.

SECT. 2. *And be it further enacted,* That all demands against any insolvent estate, not exhibited to the commissioners, whilst the commission of insolvency is pending, shall be forever barred, unless the creditor can find some estate of the deceased not inventoried or accounted for by the executor or administrator; in which case, after allowing and deducting such costs and charges, as to the judge may appear reasonable, if the estate so found and obtained be sufficient, the said creditor shall first receive a dividend, so as to make him equal with the other creditors to said estate, if there shall be so much found and remaining after deducting costs as aforesaid, and the overplus (if any there be) shall be divided in due proportion among all the several creditors to said estate.

Demands not exhibited to be barred, unless, &c.

SECT. 3. *And be it further enacted,* That if any creditor shall exhibit his claim or demand against any such insolvent estate, to the commissioners as before mentioned, and the said commissioners shall reject it wholly, or shall not allow the whole sum demanded, such creditor conceiving himself aggrieved by such judgment and determination of the commissioners, may at the time of such commissioners returning and making their report to the judge as before mentioned, or within twenty days afterwards, if such demand so rejected in whole amounted unto six pounds, or if the sum allowed by the commissioners of any demand exhibited is six pounds less than the sum demanded, appeal from the judgment of the commissioners to the superior court next to be

Appeal

Declaration to be filed, &c.	holden in the same county, signifying such his desire to the judge of probate in writing, and filing in the probate office a declaration of his demand against such insolvent estate, drawn up with the same legal certainty as is required in prosecuting demands in the courts of law, and the judge shall cause the executor or administrator to be served with a copy of such declaration, and of the appeal made by such creditor; and the creditor may at the court appealed to, on the first day of the sitting of said court, enter his action as plaintiff against the executor or administrator, and shall produce an attested copy of such his declaration, and the certificate of the judge of probate, that notice hath issued to the executor or administrator thereon; and upon such declaration, such pleadings may be had, and the matter issued in the same way and manner as though such action had been commenced in the ordinary and usual way, and had been entered at said superior court by way of appeal from the court of common pleas, and the said superior court shall certify the judge of probate, of the judgment they shall give thereon; and if something, but not more than the commissioners shall have allowed, shall in such judgment be given to the creditor, the court shall not tax costs for the creditor, but may tax costs for the executor, or administrator, if all circumstances considered they think it proper; and if the creditor shall fail to enter his action in manner and season before directed, his demand shall be forever barred, and in case any thing was allowed by the commissioners, the same shall be struck off the list, and the court may, on the complaint of the executor or administrator, tax and allow him costs, and issue execution therefor; or in case judgment be for the executor or administrator on trial or otherwise, after the entry of said action, he shall be allowed his costs, and shall have execution therefor, as in other cases: and any other of the creditors shall and may, if the said superior court think proper, be admitted to defend against such action, in the name of the executor or administrator, if the executor or administrator declines, or is himself a creditor. And the judgment of the said superior court shall be considered as the just claim of such creditor. And if any executor or administrator shall be of opinion, that the commissioners have allowed a demand against the estate, which ought not to be allowed, or have allowed a larger sum than was justly due, such executor or administrator shall at the time of the report being returned to the judge, signify his objection to the creditor (if present) or to his agent (if present) in writing, which writing shall be filed in the probate office; and if neither the creditor nor his agent be present, or if the creditor fail to prosecute his demand against such insolvent estate at the next superior court in the same county, in the manner before directed, in case of a creditor's appealing from
Notice to the executor or administrator	
Pleadings, &c.	
Costs	
If the creditor fails to enter his action, costs allowed.	
Judgment to be considered as the just claim.	
Creditor failing to prosecute, his claim to be struck off.	

the judgment of the commissioners, then the claim allowed by the commissioners, and objected to by the executor or administrator as aforesaid, shall be struck off the list of claims; but if the same, or as much as was allowed by the commissioners be allowed by the judgment of the superior court, then such creditor shall have his full costs taxed, and there shall be in either case no review allowed.

And the creditor and executor, or administrator may agree before the judge of probate to submit any dispute between them to referees, in which case their report being returned to the said judge, and accepted by him, shall be final between the parties.

SECT. 4. *And be it further enacted*, That no action against any executor or administrator of any estate represented insolvent, shall be sustained, except for debts due to the state, debts due for rates and taxes, last sickness and funeral charges; unless the executor or administrator having objection to the claim upon which the action is brought, consents to have the same settled by course of law, in which case the judgment of the court shall settle and adjust such claim, and the same shall be final.

No action against executor to be sustained, unless.

And all actions brought against any executor or administrator, before any estate is represented insolvent, shall, when such estate is represented insolvent, be discontinued, unless the executor or administrator consent to have a trial at law as before mentioned.

And no action shall in any case be commenced against any executor or administrator, until the end of one year after such executor or administrator shall have proved the will, or taken out letters of administration.

Actions not to be brought within a year.

Passed February 11, 1791.



1N ACT for the more easy partition of Lands, and other Real Estate.

Passed Feb. 4, 1789.

WHEREAS the partition of lands and other real estate, is often prevented or delayed by reason that infants or others under disability of making partition by mutual consent and deed are interested; or that the parties concerned are numerous, live remote from each other, and some of them are sometimes unknown;

For remedy whereof,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened*, That upon the application of any person or persons, interested with others in any lot, tract or parcel of land, or other real estate, (by themselves, their agents, attornies or guardians) to the judge of the probate of wills for the county in which such land or real estate, or the greater part thereof lies, the said judge be, and he hereby is empowered to cause partition of such

Judge of probate empowered to cause partition of lands to be made.

land, or other real estate to be made, and the share or shares of the party or parties applying, to be divided and set off from the rest, by a committee of five freeholders, to be appointed by the said judge; which division and partition being made, and returned to the said judge, under the hands of the said committee, or the major part of them, upon oath to their fidelity and impartiality therein, and approved and allowed by him, and recorded in the probate office for such county, shall be valid and effectual, and binding to all parties.

Land of greater value than a share may be assigned to one of the parties when it cannot be divided without damage.

SECT. 2. *And be it further enacted*, That when any tract of land, messuage, or other real estate shall be of greater value than either party's share or proportion in the estate to be divided, and cannot without great prejudice or inconvenience be subdivided, and part assigned to one, and part to another, the same may be settled or assigned to one of the parties, he or she paying to the other party or parties, such sum or sums of money, as by means thereof, shall have less than his, her or their share of said estate, as the committee shall award, or giving bond with sufficient sureties, to pay the same within such time as the said judge of probate shall limit with interest 'till paid.

Notice.

SECT. 3. *And be it further enacted*, That no judge of probate within this state, shall proceed to order such partition, until it shall be made to appear to him, that the several parties interested have had due notice of such application (by being personally served with a copy of the petition for the partition, or left at the last place of their abode, or that the substance of said petition had been inserted in one or more of the New-Hampshire newspapers, three weeks successively) and have had opportunity to make their objections to the granting such order, and guardian or guardians shall have been appointed according to law for any minors, persons non compos mentis, or otherwise incapacitated to take care of their estates, who are interested, if within this state; and an agent or agents, appointed for such as are not within, or inhabitants of this state; to be advising on his or their behalf, in the making such partition. And the committee appointed to make such partition, shall, before their doing it, cause all concerned, or their guardians or agents, to be seasonably notified of the time when they shall proceed to make such partition, that so (if they see meet,) they may be present and advising therein.

Charges of partition.

SECT. 4. *And be it further enacted*, That when partition shall be made as aforesaid, if any one or more of the parties interested shall neglect or refuse to pay his, her or their just proportion of the charges attending such partition, it shall and may be lawful for the judge of probate who ordered the same; and he is hereby authorized to cause the same to be levied by his warrant of distress, provided an account of such charges be laid before him, and the just proportion

of the persons interested, settled and allowed by him, they having been duly notified to be present at such settlement and allowance.

Provided, nevertheless, That any party aggrieved at any order, decree or denial of any judge of probate relative to the premises, may appeal therefrom to the supreme court of probate for this state, provided that such appeal be claimed and taken within sixty days from the passing such order, decree or denial, and bond given in a reasonable sum with sureties to prosecute said appeal with effect, and to pay the appellee his reasonable costs in case the said order, decree or denial be affirmed; and in case the sentence, order, decree or denial, be reversed or altered, the said supreme court of probate shall tax costs for the appellant.

Right of appeal

SECT. 5. *And be it further enacted,* That an act, entitled, "An act for a more easy and expeditious method of making partition of land, or other real estate held in common;" and an act, entitled, "An act in addition to, and amendment of, "An act for the more expeditious method of making partition of land, and other real estate held in common," be, and hereby are repealed.

Repealing clause.

Passed February 4, 1789.

AN ACT, in addition to "An act, for the more easy partition of lands and other real estate."

Passed June 26, 1810.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That any person or persons interested with others in any piece, lot or tract of land, may make application by themselves, their agents, attorneys or guardians to the justices of the superior court of judicature, at any term of said court in the county in which such piece, lot or tract of land lies; and the justices of said court are hereby authorized and empowered upon application made as is hereinafter directed, to cause partition to be made of such piece, lot, or tract of land, and the share or shares of the person or persons making such application, to be divided and set off from the rest, by a committee of five disinterested freeholders, resident in the county in which the land is situated, to be appointed by the justices of said court; which division and partition being made and returned to said court under the hands of said committee, or a majority of them, upon oath to their fidelity and impartiality therein, and approved and allowed by the justices of said court, and in said court recorded, and also recorded in the registry of deeds in the county where such piece, lot or tract of land lies, shall be valid and effectual to all intents and purposes.

Persons interested may apply to justices of superior court,

who are authorized to cause partition to be made by a committee

Under oath

SECT. 2. *And be it further enacted,* That all applications which shall be made as aforesaid, and for the purposes above mentioned, shall be by petition in writing, in which

Manner of application.

shall be particularly described the piece, lot or tract of land, for the partition of which as aforesaid application may be made, and the share or shares of the person or persons, applying, in such piece, lot or tract of land. And if the persons interested in the piece, lot or tract of land, with the person or persons applying for the partition thereof, shall be known to the petitioner or petitioners, he or they shall name them in his or their petition; but if unknown to the petitioner or petitioners, he or they shall particularly describe the piece, lot or tract of land to be divided, in such manner as the law requires in the case of unimproved lands of non-resident proprietors, and specify the share or shares he or they claim in the same in his or their petition, and also state therein that he or they hold the same share or shares together with other persons to him or them unknown.

Court not to proceed until due notice.

SECT. 3. *And be it further enacted*, That the justices of said court shall not proceed to order partition of any piece, lot, or tract of land as aforesaid, until it shall appear to them that the several persons named in any petition for partition, except the person or persons applying, have been duly notified of such petition, by being personally served with a copy thereof, or a copy left at their dwelling house, or last and usual place of abode, twenty days before the sitting of the court to which such petition may be preferred. And if on the application of any person or persons for such partition of any piece, lot or tract of land, it shall appear to the justices of said court, by the allegation or allegations in the petition, that the person or persons applying, claim a share or shares of the same with other persons to them unknown, the justices of said court shall not order partition of such real estate until they shall have ordered the petition to be continued to the term of the court next after such application made, and shall have ordered that the petitioner or petitioners give notice to all persons interested, by causing the petition to be published in the New-Hampshire Gazette six weeks successively, the last publication whereof to be six weeks before the term of said court to which the petition shall have been continued, nor until it shall have been made to appear to them, that their order for such notice shall have been fully complied with.

Petition to be continued and petitioners to give notice.

The fact alleged being controverted,

SECT. 4. *And be it further enacted*, That if the fact alleged in any petition for partition, to be preferred as in this act is provided, shall be controverted by any person or persons interested, either as joint tenant or joint tenants, tenant or tenants in common, coparcener or coparceners, or in any other way or manner whatever, in the piece, lot or tract of land, mentioned and described in any such petition for partition, the answer or objection to the petition shall be made in writing in the form of a plea, to which the petitioner or petitioners may reply or demur, so that the matter in dispute may be reduced to an issue in law fact, and receive a

the objection to be made in writing.

determination by the court or jury, in the same manner other issues are determined; and if the issue be determined in favour of the petitioner or petitioners, judgment shall be entered up by the court, that partition be made by disinterested freeholders, as aforesaid, and the court shall appoint the same accordingly, and shall award the petitioner or petitioners costs of trial to be recovered of the adverse party, and may issue execution for the same in form prescribed by law in other cases; but if on such pleadings it shall be determined that the petitioner or petitioners have no right or share in the real estate described in his or their petition, or that he or they hold a less share than he or they have in his or their petition specified and alleged, the adverse party shall recover against the petitioner or petitioners his reasonable costs, notwithstanding judgment may be rendered in favour of the petitioner or petitioners to have an assignment of such part of the real estate in severalty, as he or they in fact hold undivided.

Determined
in favour of
petitioner.

Costs to be
recovered.

SECT. 5. *And be it further enacted,* That no committee to make partition shall be appointed until the next term of said court in the county where the land lies, after judgment shall be rendered, except in cases of review. And any party aggrieved at the judgment rendered, may have a review thereof by serving the adverse party or parties with a copy of the original petition, and notice of the review, certified by the clerk of said court, or leaving the same at his or their last and usual place of abode twenty days at least before the next term of said court; and the justices of said court are empowered to sustain the same and proceed thereon as in the case of an original petition. And if the party reviewing neglect to enter the same, the adverse party may enter a complaint and shall recover thereon reasonable costs: and the justices of said court shall appoint a committee to make partition according to the judgment rendered on the original petition, or issue execution, or both, as justice may require.

Review.

SECT. 6. *And be it further enacted,* That before partition of any real estate shall be made on any application in pursuance of this act, if any infants, persons non compos mentis, or otherwise incapacitated to take care of their estates, shall be named in any petition for partition, guardians shall be appointed for them according to law. And where any person named in any such petition, shall be absent from his home at the time a copy of the petition shall be left at his last and usual place of abode, and shall not have returned before the sitting of the court to which the petition shall be preferred, and no one shall appear for him, the justices of said court shall order the petition to be continued to the next term of said court, and order such further notice to be given as they, all circumstances considered, shall think proper; and shall not proceed to render judgment till satisfacto-

Guardians to
be appointed
for infants,
&c.

Judges to or-
der notice to
absent per-
sons.

ry evidence be produced that personal notice has been given.

Committee to
give notice
previous to
making par-
tition.

SECT. 7. *And be it further enacted,* That every committee appointed as aforesaid, shall, before they proceed to make any partition, cause a notification in writing, in which shall be mentioned the time when they shall proceed to make partition, to be given to, or left at the last and usual place of abode of each person named in any petition fifteen days before the time by them appointed to make the same. And when it shall appear by any petition for partition, that the persons interested, are unknown to the petitioner or petitioners, the committee appointed to make partition on such petition, shall cause notice to be given in some publick paper or papers printed in this state, mentioning the time when they shall attend to make partition three weeks successively next before the time by them appointed to make the same, so that all concerned may be present, if they see cause, at the time partition shall be made.

Petitioners to
pay charges.

SECT. 8. *And be it further enacted,* That when partition shall be made or applied for as aforesaid, the persons applying shall each and all of them be holden to pay the charges which may necessarily attend such partition or application, and where, on the application of more persons than one for partition, any one person applying shall be compelled to pay all the charges attending the partition or application, he shall have his remedy against the other or others by action to recover of him or them, his or their just proportion of the same.

Approved June 26, 1810.

Passed Feb.
9, 1791.
[Sept. 15,
1792.]

AN ACT for the relief of Idiots and Distracted Persons.

Judge of pro-
bate to ap-
point guard-
ians for idiots.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That it shall and may be in the power of the judge of probate in each county, upon request made by the relations or friends of any idiot, non compos, lunatic or distracted person, or the overseers of the poor in such town where the said idiot or distracted person lives, or is an inhabitant, to direct the selectmen of such town to make inquisition thereinto; and if the person said to be an idiot or distracted, shall be so determined by the judge of probate in such county wherein such idiot or distracted person lives, the said judge of probate shall appoint some suitable person or persons to be guardian or guardians of such idiot, or non compos, directing and empowering such guardian or guardians to take care as well of the person as estate, both real and personal, of the said idiot or distracted person, and to make a true and perfect inventory of the said estate, to be returned to, and filed in the register's office of the court of probate within such county.

Inventory of
their estate to
be made.

SECT. 2. *And be it further enacted,* That the judge of probate in each county, be, and hereby is fully authorized and empowered to call before him, and to require and administer an oath unto any person or persons, probably suspected of making any concealment, or embezzlement, or conveying away any of the money, goods or chattels of any such idiot, non compos, lunatic, or distracted person, as well upon the complaint of any heir, creditor or other person having lawful right or claim to, or in such estate, as of the said guardian or guardians; and in case any such suspected person was intrusted by the said idiot, non compos, lunatic or distracted person, or was otherwise conversant with, or near unto him at the time of his lunacy, or distraction, or is in possession of the estate, or any part of it, whereby to strengthen and make the suspicion more violent, and shall refuse to clear, and acquit him or herself upon oath, it shall and may be lawful for the several judges of probate within this state, and they are accordingly empowered and directed to commit such person or persons so refusing to swear, unto the gaol of such county to which such judge shall belong, there to remain, until he or she shall comply to discharge him or herself upon oath as aforesaid, or be released by consent of the guardian or guardians, heir, creditor, or other person having lawful right or claim to, or in such estate as aforesaid.

Persons suspected of embezzlement

Power of the judge to imprison.

SECT. 3. *And be it further enacted,* That the guardian or guardians, appointed as aforesaid, shall improve frugally, and without waste and destruction, the estate of the idiot, non compos, lunatic or distracted person, and apply the annual profits and income thereof for the comfortable maintenance and support of the said idiot, lunatic, non compos, or distracted person, and also of his household or family (if any such he have) and that the said guardian or guardians be, and hereby are empowered to settle accounts, receive (and if need be) sue for and recover all such just debts as shall be due to the said idiot, distracted person or non compos, from any person or persons whomsoever, and to manage, improve, divide, or take care of the real estate of such idiot, or distracted person in as full and ample a manner, as the said persons could or might do, were they restored to their right mind; and also shall be subject to the payment of all such just debts owing by such persons, which were contracted before their distraction, out of the personal estate of such idiot, person non compos, or distracted, or in case that be not sufficient, then out of the real estate, being first empowered to make sale thereof, or of such part as is sufficient for that end, by the justices of the superior court of judicature, upon application to them made therefor, who are hereby authorized and empowered to order the same; and in case the said distracted persons shall come, or be restored to their right mind, the residue of his or her es-

Guardians to account for the profits

What to be done when the ward shall be restored.

tate, both real and personal, shall be returned to them, or to their respective heirs, executors, or administrators, in case of their death as the law directs, the guardian or guardians having first such a reasonable allowance out of the same for their charges and trouble, as the judge of probate (having cognizance of the same) shall order.

Guardians to give bond.

SECT. 4. *And be it further enacted*, That the guardian or guardians, appointed as aforesaid, shall give bond to the judge of probate for the time being, in such county where the idiot, distracted person, or non compos shall reside, in a reasonable sum with sufficient sureties, for the faithful discharge of the trust in them reposed; more especially, for the rendering a just and true account of their guardianship, when and so often as they shall be thereunto required: saving always the right of appeal to the superior court of judicature, from the sentences and decrees of any of the said judges of probate, made by virtue of this act.

Appeal to the superior court.

Guardian may defend any suit.

SECT. 5. *And be it further enacted*, That the guardians so appointed shall have full power to defend any suit, action or process that is, or shall be prosecuted against any lunatic, non compos, or distracted person, and be pending at the time of the appointment of such guardian, that no injury may be done to such lunatic, non compos, or distracted person, or his estate, nor any just and lawful creditor defrauded, delayed or kept out of his just demand. And the estate of such lunatic, non compos or distracted person, shall, on execution, be liable to be taken to satisfy the final judgment which shall be recovered in such case, as it might if no such disability had ever happened.

Passed Feb. 9, 1791.

Passed Dec. 24, 1805.

AN ACT respecting Idle Persons.

Idle persons who are like to become chargeable to town.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened*, That when any person, by excessive drinking, gaming, idleness, debauchery, or vicious habits of any kind shall so spend, waste or lessen his or her estate, or shall so neglect attending to any lawful or useful calling or business, which he or she may be capable of attending to, as thereby to expose himself or herself, or his or her family, or any of them to want or suffering circumstances, or shall by thus spending, wasting or lessening his or her estate, or by thus neglecting to attend to any lawful or useful calling or business, endanger or expose the town to which he or she belongs, in the judgment of the selectmen of the town in which he or she doth reside, to charge or expense for the maintenance or support of him or her, or of his or her family or any of them; such selectmen or the major part of them, shall in such case lodge a complaint with the judge of probate for the county to which

Judge of probate may appoint guardians.

the person spending, wasting or lessening his or her estate, or neglecting any lawful or useful calling or business as aforesaid doth reside.

And if it shall appear to the judge of probate that the person complained of comes within the description of this act, and has had due notice of the complaint exhibited against him or her, as the case may be, then and in that case, the said judge of probate shall appoint the said selectmen, or a major part of them, or some suitable and discreet person or persons, guardian or guardians of such person, whose duty it shall be immediately to give publick notice of their appointment in some newspaper printed in the county where they may reside, if there be any newspaper printed in the same county; but if there be not any newspaper printed in such county, all such guardians shall give notice as aforesaid in some newspaper printed in a county adjacent, and in all cases shall post up a notification of similar import in the town where such guardian or guardians reside, and in two adjacent towns—and no sale or bargain of any real or personal estate, and no contract of any nature whatever made by such person or persons under guardianship as aforesaid, after the appointment and during the continuance of such guardianship as aforesaid, shall be held or considered valid in law. Contracts by ward invalid.

SECT. 2. *And be it further enacted*, That the guardian or guardians that may be thus appointed by virtue of this act, shall, in discharging the duties of their appointment, pursue the same method, and be under similar obligations for a faithful discharge of their trust as guardians appointed for idiots and distracted persons by virtue of an act, entitled, “an act for the relief of idiots and distracted persons,” passed February 9th, Anno Domini 1791.

SECT. 3. *And be it further enacted*, That it be the duty of all guardians who may be appointed by virtue of this act, to inculcate habits of sobriety and industry in the persons placed under their charge as aforesaid, and may bind them and their children out to labour, or employ them in the work house in the town where they live if any there be, provided that every contract made by such guardian or guardians in any of the cases aforesaid, shall be in writing, and shall express the term such person is to serve, which shall not exceed one year at a time, but may be renewed or made for a shorter time, as in the opinion of said guardian or guardians there may be occasion. Duty of guardians. And it shall be the duty of all such guardians to account for the proceeds, income and profit of all persons thus placed under their charge in the same manner, and to be appropriated in the same way as accounts are to be kept, and appropriations to be made of the profits and income of the estate of idiots and distracted persons in the aforesaid act passed February 9th, 1791.

Approved December 24, 1805.

Passed June 21, 1810. *AN ACT in addition to an act, entitled, "An act respecting idle persons," passed December 24, 1805.*

Justices of the S. J. C. authorized to empower guardians to sell real estate

Page 217.

at publick auction.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That the justices of the superior court of judicature of this state be, and they hereby are authorized to empower the guardian or guardians of any person or persons, appointed under and by virtue of the act to which this is an addition, to sell and convey the real estate of his or their ward or wards for the same purposes, and in the same way and manner as the justices of said court may now empower guardians to sell and convey the real estate of their wards by virtue of an act, entitled, "an act to authorize the superior court to empower guardians to sell the real estate of their wards," passed December 24, 1795.*

SECT. 2. *And be it further enacted, That in all cases where guardians shall dispose of the real estate of their wards, by virtue of a license from the justices of the superior court, under this act, the same shall be sold at publick auction, giving such publick notice of the time and place of said sale as the justices of said court shall direct.*

Approved June 21, 1810.

Passed July 3, 1781. *AN ACT to authorize and empower the proprietors of any common and undivided lands to call meetings of their respective proprietors, and to levy and collect such sum or sums of money on their said lands as they may judge necessary; and also to transact all their other common and publick affairs.*

WHEREAS it is necessary that the proprietors of townships, and owners of other lands lying in common and undivided, should have power to call proprietary meetings; and to levy and collect such sums of money, from time to time, as they may judge necessary to carry on their publick business; and to transact all their other common and publick affairs; Therefore,

A justice of the peace may issue a warrant to call a proprietary meeting

SECT. 1. *Be it enacted by the council and house of representatives, in general assembly convened, and by the authority of the same it is hereby enacted, That where no particular method hath been settled and agreed upon by any body of proprietors for calling their proprietary meetings (which they are hereby authorized and empowered to do at any of their legal meetings) any justice of the peace is hereby authorized upon application of so many of said proprietors as own one sixteenth part of the rights, shares and interests of the whole, being made to him in writing, expressing their desire that he would notify and call a meeting of such proprietors, and the end and design of it; he*

shall issue a warrant or notification to the proprietors who are to meet, setting forth, that such application has been made, the time and place of holding such meeting, and the business to be transacted at the meeting, and shall deliver the same to one of the proprietors who made such application, who shall cause the same to be printed in the New-Hampshire Gazette, three weeks successively, and shall cause the same to be posted up in some publick place within such town, parish or place where the estate lies (if within any settled town) the same time before the day of holding such meeting. And said proprietors may, at such or any other legal meeting, choose any officers they shall judge necessary to do any business of the proprietors, who shall be sworn to the faithful discharge of the duty and office to which they shall be respectively chosen; and shall continue therein, and be hereby authorized to discharge the same until others shall be chosen to succeed them respectively.

Proprietors
may choose
officers.

SECT. 2. *And be it further enacted*, That the interest and estate of every such proprietor, so lying in common, shall be liable to pay and stand charged with his part and proportion of any sum of money which at any legal meeting shall be agreed upon and voted to be raised; and those who shall be chosen to assess and proportion the same amongst the proprietors (commonly called assessors) shall set such proportion to the original right or proprietor, and commit the list thereof, with a warrant or precept, to the person chosen to collect the same, therein setting forth his duty agreeable to this act, the time for completing the collection, and to whom the money is to be paid. And such collector is hereby directed, upon receiving the same, to give notice in manner and form aforesaid of the assessment, and where the same shall be paid and received; as also, that if payment shall not be made accordingly, the money will be levied by sale of so much of the interest and property of the proprietor or owner who shall be delinquent therein fourteen days after the last week of notice as aforesaid: after which the said collector shall advertise so much of the delinquent proprietor's or owner's land for sale as will pay said taxes and the reasonable incidental charges, giving three weeks notice of such sale, at least, by publishing the same in the newspaper as aforesaid, and also by posting the same for the term aforesaid, in some publick place in the town or place where said lands lie, if the same be settled, and in case the said delinquent proprietor or owner shall neglect to pay the aforesaid taxes, with the incidental charges (excepting the cost of the first advertisement of such assessment, which shall be defrayed by the proprietors) to the said collector before the sale; then the said collector shall, on the day appointed, proceed to make sale at publick auction of so much of said delinquent's land

Estate of pro-
prietors to
pay their pro-
portion.

Collectors
duty.

Collectors to
make sale.

as will pay said taxes, and the reasonable incidental charges as aforesaid, provided the said sale be made between the hours of ten of the clock in the forenoon, and six of the clock in the afternoon. And the said collector is hereby authorized to execute a good and valid conveyance thereof to the purchaser.

Liberty for redemption.

SECT. 3. *Provided, nevertheless, and be it further enacted*, That each proprietor or owner as aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his lands sold as aforesaid, at any time within the term of two months after the sale thereof as aforesaid, he or they paying to the purchaser a sum amounting to the real value of what the land sold for, the interest therefor to the time of payment, and all reasonable charges.

Persons absent shall have liberty to redeem.

And that all persons actually engaged in the war in the service of the United States of America, or in captivity, being out of this state, or on publick business out of this state, their heirs, executors, administrators or assigns, shall have the like liberty of redeeming any of their lands sold as aforesaid, at any time within the term of six months after the said impediment shall be removed, they paying the sum, interest and charges as aforesaid. And all votes at the said proprietors' meetings shall be computed according to the interest of the voters. And any body of proprietors, at any legal meetings as aforesaid, are hereby authorized to confirm, ratify and establish any grants, conveyances, votes and transactions by them designed and intended to be made, done, performed or transacted, agreeable to such design, intention and aim, notwithstanding any want of legal form, or proper terms, or any defect of process relative to the same.

How votes to be computed.

Proprietors may confirm grants, &c.

And whereas, it may so happen that new townships and tracts of land may be divided and severed among the proprietors thereof, and it may be necessary that such proprietors levy taxes upon such lands as are or may be laid out and divided into lots, in order to fulfil the terms and conditions of the grants or charters by which said lands are holden.

Lots may be assessed and sold for taxes.

SECT. 4. *Therefore be it further enacted*, That when it shall so happen that there is not common land sufficient to satisfy the taxes so assessed, the lot or lots so divided and severed, that are or may be drawn or held to any right or share, shall be liable to be assessed and sold for the taxes of said right, in the same manner, and under the same regulations as in and by this act is provided and directed to be done in selling and disposing of a common right, or any part thereof, and to prevent the injury which may otherwise accrue to purchasers, the assessors aforesaid shall proportion the tax laid upon each right to the several lots thereto belonging, according to the proportion of such lots to the original right, and no more, and the same may be sold by the rules and directions aforesaid.

And whereas the proprietors of many towns and places in this state, in order to carry on and perform their settlements according to the conditions and limitations of their respective grants, have been under a necessity of holding proprietary meetings, and transacting many matters in their judgment necessary to be done for the good of the affairs of the said respective proprieties since the acts and laws of this state, authorizing and empowering proprietary meetings, and ratifying and confirming their proceedings as such, have expired, (being made temporary:)

SECT. 5. *Therefore be it further enacted, by the authority aforesaid,* That all proprietary meetings holden since the expiration of the laws of this state, authorizing and empowering proprietary meetings, and appointment of necessary officers, and all other proprietary matters and transactions whatsoever, had or done in any of the said proprietary meetings, shall be deemed and held good and valid in law, as fully and amply to all intents and purposes, as the same might or could have been, had the said expired acts and laws of this state been in full force until this time.

Certain transactions valid in law

Provided, nevertheless, That nothing in this act contained shall extend, or be construed to extend, to charge any proprietor who has fully complied with the terms, conditions and duties required or stipulated in the grant or charter under which he holds his interest therein, towards satisfying and discharging such terms, conditions and duties, required of any other proprietor who hath not fully complied with such terms, conditions and duties as aforesaid.

Passed July 3, 1781.

AN ACT in addition to an act, entitled, "An act to authorize and empower the proprietors of any common and undivided lands to call meetings of their respective proprietors, and to levy and collect such sum or sums of money on the said lands, as they may judge necessary; and also to transact all their common and publick affairs," passed the third of July, in the year of our Lord one thousand seven hundred and eighty-one.

Passed Nov. 10, 1784.

WHEREAS in and by said act it is enacted, that when new townships and tracts of land are divided and severed among the proprietors thereof, and it may be necessary that such proprietors levy taxes upon such lands as are, or may be laid out and divided into lots, in order to fulfil the terms and conditions of the grants or charters, by which said lands are holden, the lot or lots so divided and severed, that are, or may be drawn or held to any right or share, shall be liable to be assessed and sold for the taxes of said right, but no provision is made in said act for assessing said lots for any other purpose, which is often found necessary:

SECT. 1. *Be it therefore enacted by the senate and house of representatives, in general court convened,* That when such townships or tracts of land, are so divided and severed, and the said proprietors shall find it necessary to raise any sum of money for the defraying any proprietary charges, and at any legal meeting of such proprietors, shall agree upon and vote to raise such sum, and there is not common land sufficient to satisfy the same, the lot or lots so divided and severed that are, or may be drawn or held to any right or share, shall be liable to be assessed and sold for their proportion of the taxes of said right, in the same manner as in and by the said act is directed to be done in selling of a common right, or any part thereof, and that at all such meetings every holder of any of said lands, shall be admitted, and have a right to vote according to their respective interest.

And whereas it often happens that more than one person is interested in a right, or proprietor's share of land, or a lot, part of such right held in common and undivided, and one or more being owner or owners of such land, shall pay his, her and their proportion of such taxes according to their interest, and some other owner or owners in the same land, being delinquent in paying their proportion of such taxes, shall occasion some of such lands to be sold for the unpaid taxes :

Lands sold shall be deemed as part of delinquents' share.

SECT. 2. *Therefore be it enacted,* That all lands sold in such cases, shall be deemed, judged, and taken as part of the interest or share of the delinquents, according to the quantity and quality of the whole.

Passed November 10, 1784.



Passed June 17, 1796.

AN ACT in addition to the laws now in force relating to proprietary matters.

Meetings where to be holden.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That from and after the passing this act, all meetings and adjourned meetings of any proprietors of lands, to be holden by virtue of the laws of this state, for transacting proprietary matters, and all vendues, and adjourned vendues for the sale of lands of the proprietors, on account of the non-payment of any taxes of the delinquents, shall be holden in the manner in this act mentioned, and not otherwise ; that is to say, in all such towns and places within this state, having fifty families settled and resident therein, all the meetings, adjourned meetings and vendues for the sale of lands, shall be holden in such town or place for which the business is to be transacted ; and in all such towns and places, as at the time of holding any proprietary meeting, adjourned meeting, or vendue for the sale of lands, there may at that time be twenty families, or any number of families resident therein between

twenty and fifty, such meeting or vendue shall be holden in such town, or in the nighest town thereto, which may at that time have fifty families resident therein, or in the nearest shire town thereto, in the county wherein the lands lie.

SECT. 2. *And be it further enacted*, That the same term of time, and mode of redemption in proprietary matters, shall be had and pursued, as by the laws of this state is allowed and pointed out for the payment of money for the redemption of lands sold for state and county taxes.

Time of redemption

Passed June 17, 1796.

The foregoing bill, having passed both houses of the general court, was, on the 14th day of June, 1796, presented to the governor for his approbation and signature—on the 17th day of the same June, it was returned by the governor to the house of representatives in which it originated with his objections; on the same day, on reconsideration, it was passed by more than two thirds of that house and was sent to the senate with the governor's objections—It was on the same day, on reconsideration, passed and approved by more than two thirds of the senate, and so became a law, June 17, 1796.



AN ACT in addition to the laws relating to proprietary matters.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the twentieth day of May next, all proprietors' clerks and collectors, and all other proprietary officers, shall be inhabitants of this state; and upon their ceasing to be inhabitants as aforesaid, their respective offices shall cease; and all persons who now or shall then hold any of the offices aforesaid, and who live out of this state, shall cease to hold said offices from and after said twentieth day of May next.

Passed Dec. 24, 1798.

Clerks, &c. shall be inhabitants.

SECT. 2. *And be it further enacted*, That in every case where the proprietors' clerk now lives without this state, or shall so live on said twentieth day of May next, it shall and may be lawful for one sixteenth part, or more, of the proprietors of said lands, to apply in writing to any justice of the peace in this state, requesting him to call a meeting of said proprietors, who shall on such application issue his warrant or notification accordingly; and the same notice shall, in all respects, be given for calling said meetings, as by law is required for calling proprietary meetings.

Mode of calling meetings in such case.

SECT. 3. *And be it further enacted*, That the number of votes to which each proprietor at any proprietary meeting shall be entitled, shall be according to the number of rights or shares said proprietor owns in said land, in the proportions following, and not otherwise: that is to say, for one right or share, one vote; for two rights or shares, two votes; for every two rights or shares above two, and not exceed-

Manner of voting.

ing ten, one vote ; for every four rights or shares above ten, and not exceeding thirty, one vote ; for every six rights or shares above thirty, and not exceeding sixty, one vote ; and for every eight rights or shares above sixty, one vote. And if two or more persons be the proprietors or owners of a right, share or lot, such persons or any one of them, shall be entitled to vote according to their interest therein, agreeably to the rate and proportion aforesaid

Deeds of collectors when and by whom to be executed.

SECT. 4. *And be it further enacted*, That no collector of any proprietary tax, shall execute a deed of any real estate by him sold for taxes, until the time for redeeming the same shall be expired ; and in case any proprietors' collector shall die, remove, or any way be rendered incapable of completing the duty of such office, their successors respectively shall complete the same. And any person shall have the liberty of redeeming any lands sold for the payment of proprietary taxes, at any time within the term of one year from the sale thereof, the person redeeming the same, paying to the collector a sum amounting to the real value of what the lands sold for, all legal charges, and the interest thereon to the time of payment. *Approved December 24, 1798.*

Passed June 10, 1803.

AN ACT authorizing the Masonian Proprietors to hold their proprietary meeting in the town of Portsmouth.

Meetings to be holden in Portsmouth.

Proviso.

BE it enacted by the senate and house of representatives, in general court convened, That the owners of the common and undivided lands in this state, purchased of John Tufton Mason, deceased, commonly called the Masonian proprietors, be, and they hereby are, authorized and empowered to hold their proprietary meetings in the town of Portsmouth, in the county of Rockingham, for transacting any and all business relating to said proprietary ; and that all votes, acts, and doings of said proprietors, passed, done, or transacted at any meeting or meetings so to be holden in said Portsmouth, shall have the like force, effect, and validity, as the same would have if passed, done, or transacted, at a meeting or meetings of said proprietors, duly holden in the respective towns and counties where the lands to which such votes, acts or doings, may relate, are situate : *Provided*, That such meeting or meetings, so to be holden in said Portsmouth, shall in all respects, except the place of holding the same, be holden agreeably to the provisions of the laws regulating proprietors' meetings.

*Approved June 10, 1803.**

* This act is published because many titles are derived from the acts of this proprietary which comprehends a large portion of the territory of the state.

AN ACT regulating Proprietary Matters.

Passed Dec
22, 1808

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That in every case of a proprietary of common and undivided land, in a town where there shall be fifty families, the proprietors' clerk shall live in the town.

SECT. 2. *Be it further enacted*, That every clerk of proprietors of common and undivided land shall be obliged to furnish such certified copies of the proprietary records, as are requested of him by any person, on penalty of forfeiting the sum of one hundred dollars to such person; and said clerk shall also be liable to such person requesting copies as aforesaid, on refusing to furnish the same, for all damage which he may sustain in consequence of said refusal.

Clerk to furnish copies.

Penalty.

SECT. 3. *Be it further enacted*, That in every town having fifty families or more, where there is or shall be no proprietors' clerk living in such town, it shall be the duty of the town clerk to call on the person having possession of the proprietors' records, who shall be obliged, under the penalty of five hundred dollars, (to be forfeited to any person who will sue for the same) to deliver to said town clerk said proprietary records; and it shall be the duty of such town clerk, when he shall have so received said records, to furnish certified copies of said records to every person who may apply for the same, on penalty of the sum of one hundred dollars to the use of any person who will sue for the same; and shall also be liable to the person so requesting copies, for all damages by him sustained in consequence of said refusal.

Town clerk to furnish copies in certain cases.

SECT. 4. *Be it further enacted*, That any person who shall intentionally destroy any proprietary records, or shall aid or assist in carrying the same out of this state, shall be liable to any person injured thereby, for all damages; and shall also be considered guilty of a misdemeanor, and may be indicted therefor.

Destroying proprietors' records.

SECT. 5. *Be it further enacted*, That no proprietors of common and undivided land shall have power to tax any lands holden in severalty; any law to the contrary notwithstanding.

Certain lands exempted from taxation.

SECT. 6. *Be it further enacted*, That said town clerks and said proprietors' clerks shall be entitled to receive, for copies, the same rate of fees as is by law allowed to clerks of the court of common pleas, for copies.

Compensation for copies.

SECT. 7. *Be it further enacted*, That the several penalties mentioned in this act may be recovered by action of debt, in any court or courts proper to try the same.

Penalties how to be recovered.

Approved December 22, 1808.

Passed Dec.
11, 1812.

AN ACT to remedy the loss of Annual Meetings.

BE it enacted by the senate and house of representatives, in general court convened, That any sixteen of the legally qualified voters, or the owner or owners of one sixteenth part of the property of any body politick and corporate (other than towns) in this state, which from any cause may have failed, or shall hereafter fail to hold its annual meeting, may apply in writing to any justice of the peace in this state to call a meeting of the members of said body politick and corporate, for the purposes for which the annual meeting thereof was to have been holden; and said justice shall thereupon issue his warrant directed to any one of said applicants, requiring him to warn a meeting of such corporate body for the purposes aforesaid, by giving fourteen days notice of such meeting, by publishing a copy of said written application and warrant in the same manner as the warning for the annual meeting of said corporate body would have been published had it been regularly published; and at the meeting thus warned the business of the annual meeting shall be transacted, and the business thus transacted shall be as binding and valid to all intents and purposes, as if said meeting had been holden on the day prescribed by the act of incorporation. *Approved December 11, 1812.*

Passed Dec.
17, 1812.

AN ACT in addition to the laws now in force relating to the proceedings of Corporations.

BE it enacted by the senate and house of representatives, in general court convened, That no person shall hereafter be eligible to hold the office of clerk of any body or bodies made corporate and politick by any act or grant of the legislature of this state, except he be an inhabitant of this state; any usage or custom to the contrary notwithstanding.

Approved December 17, 1812.

Passed Feb.
8, 1791.
[Sept. 15,
1792.]

AN ACT for regulating Towns and the Choice of Town Officers.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That the lines between towns shall be perambulated, and the marks and bounds renewed within two years from the passing of this act, and once every seven years forever after by the selectmen of each town, or by such person or persons as they shall in writing appoint for that purpose; and their proceedings shall be recorded in the respective town books; and the selectmen of that town which hath been longest organiz-

Town lines to
be perambulated.

ed or incorporated, shall give notice in writing unto the selectmen of the towns adjoining, which have not been so long organized or incorporated, of the time and place of meeting for such perambulation, ten days before hand; and where two towns were incorporated on the same day, that which is highest in the valuation or proportion of publick taxes shall be considered as the senior town; and if the selectmen, whose duty it is to give such notice, shall neglect to notify in the manner and season by this act required, they shall forfeit the sum of five pounds, to be recovered by the selectmen of any junior town adjoining, who are entitled to such notice, by action in the court of common pleas; one half to the use of the selectmen who sue for the same, and the other half to the use of the town where the selectmen suing for the same belong; to be commenced in one year after such forfeiture shall have accrued, and not afterwards.

And in case the selectmen whose duty it is, shall give such notice as by law they ought to give, but shall neglect to attend at the time and place agreeably to the notification, they shall, for every such neglect forfeit the sum of five pounds, to be recovered and disposed of in the same manner as the forfeiture above mentioned, and shall be prosecuted in the time therein limited, and not afterwards.

And in case the selectmen of the junior town, after being duly notified to attend such perambulation, shall neglect to attend agreeably to such notification, they shall forfeit the sum of five pounds, to be recovered by the selectmen of the senior town so notifying, in the court of common pleas; and to be appropriated one half to the selectmen suing for the same, and the other half to the use of the senior town; provided the action be commenced in one year after the forfeiture shall have accrued, and not afterwards.

And in default of such prosecution in either of the cases aforesaid, within the time limited as aforesaid, the said forfeiture may be recovered by indictment, in the superior court of judicature, if found at any time within two years next after the said forfeiture shall have accrued.

And in either of the cases aforesaid, where a town shall adjoin on a parish with town privileges, the said parish shall be considered to all intents and purposes as the junior town, and shall be entitled to notice accordingly; and the selectmen thereof shall have the same powers, and be liable to the same penalties for all the purposes before mentioned, as the selectmen of towns.

And where any town shall adjoin on any tract of land unincorporated, the perambulation may so far as they adjoin be exparte. See act. of 16 Dec. 1796.

SECT. 2. *And be it further enacted,* That every male inhabitant of each town in this state, of twenty-one years of age and upwards, paying for himself a poll tax, shall have a right to vote in the town where he lives, or of Voters

which he is an inhabitant, in any publick town meeting, in any matter that shall come before such town.

Town officers
to be chosen.

*See act of
13 Dec. 1804,
providing
that certain
officers shall
be chosen by
ballot

Duration in
office.

Town clerk
to record.

SECT. 3. *And be it further enacted*, That at the annual meetings of the inhabitants of each town in this state, duly warned and holden in such town annually, forever in the month of March, on such day as the charter of such town, or the law of this state hath prescribed, the said inhabitants being assembled in legal town meeting duly warned, shall then and there by major vote choose* a suitable person to be clerk of such town, and three or more persons, not exceeding nine, able and discreet, of good conversation, and freeholders inhabiting in such town, to be selectmen, overseers of the poor, treasurer, firewards, a constable or constables, all of whom shall be freeholders and inhabitants of said town, collectors of taxes, surveyors of highways, tythingmen, fence viewers, clerk of the market, sealers of leather, sealers of weights and measures, hogreeves, corders of wood, surveyors of lumber, culler of staves, haywards or field drivers, and every other town officer that the law of this state directs, and such other officers as they may judge necessary for managing their affairs ; and the before named, and all other town officers, known in law as such, shall have an oath administered unto them agreeably to the form prescribed, for the faithful discharge of the duties of their respective offices. And such officers shall continue in office the space of one year, or until the next annual meeting for the choice of town officers, and until others be chosen and sworn in their room, except in cases where the law shall otherwise direct ; and the powers of all collectors of taxes and surveyors of highways, shall continue until they shall have collected all the monies in their lists contained, of the persons therein named, or have caused the labour required to be done in such surveyors' warrants to be done and performed.

And it shall be the duty of the town clerk truly to record all votes passed in any town meeting whilst in office, and to discharge all the duties of the office according to law ; and the selectmen shall have the ordering and managing of all the prudential affairs of such towns, and the said town clerk, selectmen and all other town officers, shall faithfully do, perform and execute all other matters and things in the laws appointed by them to be done and performed.

And the selectmen of any town may, and shall discharge the duties of overseers of the poor, and treasurer, where such officers shall not be particularly chosen, and any town may choose assessors, who shall have the qualifications of selectmen, and shall have all the powers of selectmen as far as relates to assessing taxes.

And the town clerk, or any two of the selectmen, shall forthwith after the choice of such town officers, by writing

under his or their hands, direct any constable of such town to notify the persons so chosen and named in such writing, to appear within six days from the day of such notice before the town clerk for the time being, or any of the selectmen, or any justice of the peace in the same county, and take the oath by law prescribed; and the constables shall within four days after the receipt of such writing or precept, notify the persons therein named agreeably to the tenor of said precept, which notice shall be personal or left at the usual place of abode of the person so chosen; or such persons may be notified to take the oath of office in open town meeting, by the moderator, any selectman, or the town clerk; and such person if present shall immediately in open meeting declare his acceptance or refusal.

Town officers
to be notified
to take the
oath of office.

And every person not by law exempt from serving in such office, who shall after such notice being given in open town meeting as aforesaid, neglect for the space of one hour to take the oath of office, and every person who shall neglect for the space of six days, after he shall have received such other personal notice as before mentioned, or for the same space of time after the notification shall have been left at his place of abode, or for the space of six days after he shall have returned to his dwelling house, in case he was absent when the said notification was left, to appear and take such oath, and in case the same is taken before any person other than the town clerk, to file a certificate of his having so taken it with the town clerk, shall forfeit and pay the sum of twenty shillings to any person who will sue for the same; provided nothing above contained shall be considered as applying to such officers for whose neglect a different penalty is by law provided.

Penalty for
neglect

And every constable shall within ten days after the receipt of such writing or precept, return the same with his doings therein to the town clerk for the time being; and every constable neglecting his duty in any of the particulars aforesaid, shall forfeit and pay the sum of thirty shillings to any inhabitant of this state who will sue for the same; the one half of the forfeitures before mentioned to be for the use of such town, and the other half to the use of the prosecutor.

Constable to
return the no-
tification.

Provided always, That no person shall be obliged to serve in any town office two years successively, nor shall any person in commission for any office, civil or military, church officer, any member of the legislature for the time being, nor any one who has served in the office of a constable in any town in this state, other than such as shall serve for hire of any particular person, or of any town, within seven years, be obliged to serve in the office of constable: *And provided further,* that no person shall in any case be compelled to serve as a collector of taxes.

Town clerk
to record
names of per-
sons sworn.

SECT. 4. *And be it further enacted,* That the town clerk shall make a record of the names of such persons as shall be sworn into any town office.

Town clerk,
&c. empower-
ed to swear
town officers.

SECT. 5. *And be it further enacted,* That any town clerk, or any one of the selectmen, or any justice of the peace, be, and they hereby are respectively empowered to administer the oath of office in form by law prescribed to any town officer.

Vacancies to
be filled.

SECT. 6. *And be it further enacted,* That when there shall be a vacancy in any town office, by reason of the death of any town officer, or by reason of the non-acceptance of any person chosen into any such office, or by reason of the removal of any such officer, or by reason of any person becoming *non compos mentis*, in the judgment of the town, or when there shall be a vacancy in any other way, or when there shall be a want of any town officer or officers, the inhabitants of such town at any legal meeting duly warned and holden in such town, or at the adjournment of the annual meeting may proceed to fill up such vacancies, and to choose such officer or officers as may be wanting, and the officer or officers so chosen and sworn shall have the same power and authority as though chosen at the annual meeting for the choice of town officers. And in every such case the person filling such vacancy is authorized to take up the business appertaining to his office, where his immediate predecessor in office, left it, and to proceed to the full execution and discharge of the same, as fully to all intents and purposes as the officer first chosen into said office that year could or might have done. And all officers chosen at said meetings shall be liable to the same penalties and forfeitures for not accepting, or not taking the oath of office, and for every neglect of duty in their respective offices, as though such officers were, or had been chosen at the annual meeting for the choice of town officers.

New collec-
tors chosen in
case of death,
&c.

SECT. 7. *And be it further enacted,* That in case any collector of taxes in any town in this state shall die, abscond or become *non compos mentis*, before he shall have completed the collection of the several sums in his list contained, the inhabitants of any such town, may at any publick meeting duly warned and legally holden in such town, choose a collector, or hire and agree with one in his room, who shall have power and authority to finish the collection of the sums in such lists contained, in as ample a manner as the collector to whom such list was originally committed could have done, and shall be liable for the taxes outstanding at the time he received the list, in the same manner as other collectors are by law answerable for the lists committed to them to collect.

Selectmen to
appoint col-
lectors.

SECT. 8. *And be it further enacted,* That if any town or place shall neglect or refuse to choose a collector or collectors, or shall refuse to fill up a vacancy in case the office be

vacant, in either of the ways before mentioned, in every such case the selectmen of such town or place shall and may make such choice, or fill up such vacancy, and the person so appointed by the selectmen shall have all the power and authority as far as relates to collecting state and county taxes, and shall be liable to the same pains and penalties, in case of neglect of duty, as collectors chosen by the inhabitants of any town or place by law are, or may be liable; and the selectmen may give such collector by them so appointed, in the case aforesaid, a reasonable sum for his trouble, and may charge the town to which they belong therewith.

SECT. 9. *And be it further enacted,* That the inhabitants of every town in this state, qualified by law to vote in town affairs, at any meeting duly warned and legally holden, are hereby empowered to make and agree upon such necessary rules, orders, and by-laws for the directing, managing and ordering the prudential affairs of such town, as they shall judge most conducive to the peace, welfare, interest and good order of the inhabitants of such town, and to annex penalties to such laws, not exceeding twenty shillings for one offence, and to enure to such use as they shall therein direct. Provided such laws be not repugnant to the constitution and laws of this state, and provided also that such by-laws be approved by the court of general sessions of the peace in the same county. And the penalty for any breach of such by-laws shall be recovered before any justice not interested therein.

SECT. 10. *And be it further enacted,* That the inhabitants of each town in this state, qualified to vote as aforesaid, at any meeting duly and legally warned and holden in such town, may agreeably to the constitution, grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance and support of the ministry, schools, meeting houses, school houses, the maintenance of the poor, for laying out and repairing highways, for building and repairing bridges, and for all the necessary charges arising within the said town, to be assessed on the polls and estates in the same town as the law directs.

SECT. 11. *And be it further enacted,* That when there shall be occasion for a town meeting, the selectmen shall make out a warrant under their hands and seal, directed to some constable in the same town, requiring him to notify the inhabitants of such town, qualified by law to vote in town affairs, to meet at a place in said town and at a certain hour therein mentioned; and the said selectmen shall in such warrant insert the intent and design of such meeting, and the subject matter of all business, matters and things to be considered and acted upon at said meeting; and nothing done at said meeting holden upon, or by virtue of said warrant shall be considered as good and valid in law, unless the subject matter thereof shall have been inserted as aforesaid.

See act of 13
Dec. 1804, on
this subject.

And the constable shall post up an attested copy of such warrant at the meeting house, or some publick place in said town, fifteen days before the day of holding such meeting, or give personal notice, the like number of days before such meeting (unless in cases where other and different notice is by law prescribed and directed) or otherwise notify and summon the inhabitants in such way and manner as the inhabitants shall at any legal meeting agree upon; and the constable shall return such warrant at the place, and at the hour for holding such meeting, with his doings therein, to the town clerk, or in his absence, to any of the selectmen to be acted upon.

And in case ten or more of the freeholders in any town, shall signify their desire in writing to the selectmen, to have any matter or thing inserted in a warrant for calling a meeting, the selectmen are hereby required to insert the same in the next warrant they shall issue for a meeting, or call a meeting for the express purpose of considering thereof, if the same should be requested. And in case the selectmen shall unreasonably neglect to call a meeting, or to insert such article, the sixth part of the legal voters in any such town may apply to any justice of the peace within the same county, who is hereby authorized and empowered to issue his warrant under his hand and seal, directed to any constable of the town, if any such there be, otherwise to any of the freeholders applying, directing and requiring him to warn the inhabitants of such town, qualified to vote in town affairs, to assemble at such time and place in said town, as the said justice shall order, and for the purposes in said warrant expressed, and the same notice shall be given and return thereof made as in other cases.

And when by reason of death or removal of selectmen, a major part of the number originally chosen, shall not remain in office, in such case a major part of the survivors, or such as remain in office, shall have power to call a town meeting, for the purpose of filling up such vacancy.

And if it should so happen at any time, that there should be no constable in office in any town, or if the constable or constables should be absent, or neglect or refuse to do their duty herein, the selectmen may direct their warrant for calling a town meeting to any freeholder in such town, who is hereby authorized, empowered and required to notify and summon the said inhabitants in the same manner, as a constable might or could do. And such freeholder shall be subjected to the like penalty for neglect of duty herein, as constables are in the like case.

And if any constable shall in any of the particulars aforesaid, neglect his duty, he shall, for each offence forfeit and pay the sum of ten pounds to any inhabitant of the town who will sue for the same, in the court of common pleas in the same county, the one half thereof to the use of the town, and the other half to the use of the prosecutor.

SECT. 12. *And be it further enacted,* That all places incorporated by the names of parishes with town privileges, are hereby declared to be towns to every intent and purpose, and are entitled to all the privileges, and vested with all the powers, and liable to all the penalties to which towns by this act are entitled, or which such towns are vested with, or to which towns are liable.

Parishes with town privileges declared towns.

SECT. 13. *And be it further enacted,* That if any selectmen shall neglect to issue a warrant, for the holding of meetings in due course of law, for the choice of president, senators, representatives, county register, and county treasurer, and town officers, they shall for each neglect, forfeit and pay the sum of ten pounds, to be recovered by any person who shall sue for the same in the court of common pleas, which sum shall be for the benefit of the person suing for the same.

Penalty for neglecting to call meetings

SECT. 14. *And be it further enacted,* That whenever it shall happen, that the annual meetings of any town or parish in this state hath not been duly holden, or in case any town or parish hath never had any legal meeting; then on the application of any ten freeholders of such town or parish, made in writing to any justice of the peace, such justice shall call a meeting of the inhabitants of such town or parish by warrant under his hand and seal, directed to any of the freeholders of said town or parish, in which warrant shall be expressed the design of such meeting, and the articles to be acted upon; and the same notice shall be given as in other cases of warning town meetings, and the said justice shall preside in said meeting until a moderator be chosen.

Justice to call meetings in certain cases.

SECT. 15. *And be it further enacted,* That at every town meeting a moderator shall be first chosen by a majority of votes, who shall then be empowered to manage and regulate the business of that meeting, and when any vote declared by the moderator, shall immediately, and before any other business be entered upon, be scrupled, or questioned by seven or more of the voters present, the moderator shall make the vote certain, by polling the voters, or in such way as the majority of the voters present may determine. And no person shall speak in the meeting without leave of the moderator, nor when any other person is orderly speaking, and all persons shall be silent at the desire of the moderator, on pain of forfeiting five shillings for the breach of every such order, to the use of the town, and if any person after being notified by the moderator of such offence, or being out of order, shall persist in such disorderly conduct, the moderator shall order such person to withdraw from the meeting, and such offender upon his refusal or neglect to withdraw, shall forfeit and pay the sum of twenty shillings to the use of such town, for each and every such offence; said forfeitures to be recovered by the moderator, selectmen or town

Moderator to preside.

See act of 19 Dec. 1797.

treasurer, before any justice of the peace in the same county, not an inhabitant of the same town, unto whom the penalty or any part of it is given.

Provided always, That town meetings for the choice of president and senators of this state, electors and representatives of the United States, shall be regulated and governed as the constitution, and laws respecting such elections may specially direct.

Penalties how recovered.

SECT. 16. *And be it further enacted,* That all penalties and forfeitures in this act mentioned, not exceeding forty shillings, shall be sued for before a justice of the peace in the county where the offence may be committed; the action to be commenced within three months after the offence committed, and not afterwards.

Towns declared bodies politic—may, &c.

SECT. 17. *And be it further enacted,* That the inhabitants of every town within this state, are hereby declared to be a body politic and corporate, and as such by the name of their incorporation may sue and be sued, and may prosecute and defend any action or suit in any proper court in this state; and such towns may at any legal meeting, duly warned and holden in such town, choose an agent or agents, attorney or attorneys for the purposes aforesaid, and a certificate of such appointment, signed by the town clerk, shall be deemed sufficient evidence thereof.

Trustees and proprietors may sue and be sued.

SECT. 18. *And be it further enacted,* That all trustees of colleges, academies, schools, and proprietors of common and undivided lands, grants and other estates or interests, be, and hereby are empowered to sue, prosecute and defend any actions, and to appoint an agent or agents, attorney or attorneys to appear for them and in their behalf.

Mode of service on corporations.

SECT. 19. *And be it further enacted,* That when any town, body politic or corporate, or the proprietors of any common and undivided lands, trustees for schools, academies or colleges are sued, an attested copy of the writ shall be delivered to the clerk of such town, body politic or corporate, or proprietors of common and undivided lands or trustees, or to one of the principal inhabitants or members, thirty days before the sitting of the court to which the same is returnable, or left by the like number of days before the sitting of said court, at his last and usual place of abode.

Places unincorporated to choose assessors, &c.

SECT. 20. *And be it further enacted,* That all places unincorporated, which shall from time to time be ordered by the general court to pay any part of the publick taxes, shall be, and they hereby are invested with all the powers which towns in this state by law have, so far as relates to the choice of assessors, selectmen and collectors, and the persons chosen into said offices respectively, shall be liable to the same penalties for not taking the oath of office, and to the same penalties, forfeitures and process for neglect of duty in any thing pertaining to their respective offices, as such

officers in towns by law are ; and the inhabitants of such unincorporated places, who may neglect or refuse to choose assessors, selectmen and collectors, shall be liable to the same process as the inhabitants of towns so refusing or neglecting ; and any justice of the peace upon the application of any five of the inhabitants of any such place, shall warn a meeting for the choice of such officers in the same manner as he is authorized and required by law to do, on the application of the inhabitants of any town, on the refusal or neglect of selectmen, and such assessors shall have the same power, and it shall be their duty to warn meetings in such places for the choice of all such officers in future.

SECT. 21. *And be it further enacted,* That where any town or place in this state, by law liable to pay publick taxes, have refused or neglected, or shall refuse or neglect to choose proper officers for assessing and collecting taxes according to law, the treasurer of the state, and the county treasurers respectively, are empowered and authorized to issue their executions against the inhabitants of such towns or places, and the persons from whom such sums shall be levied, shall have contribution against the other inhabitants of such town or place for such sums so levied from them as aforesaid, and all costs and damages they may have sustained thereby, and shall recover double costs of suit.

Treasurers may issue extents against the inhabitants in certain cases.

SECT. 22. *And be it further enacted,* That in all cases where any thing by law is enjoined upon, or to be done by the selectmen of any town or place, it shall be sufficient, if done by the major part of such selectmen.

Major part of selectmen may act.

SECT. 23. *And be it further enacted,* That no person shall by virtue of his being chosen constable, be compelled to collect any rates or taxes.

Constable not obliged to collect taxes.

Passed February 8, 1791.

AN ACT for extending the Boundaries of certain Towns. Passed Jan. 6, 1795.

WHEREAS the several towns in this state adjoining Connecticut river, are bounded by the easterly banks of said river, by reason whereof, the islands, ferries, bridges, &c. in and upon said river cannot by law be taxed by said towns ; For remedy whereof—

Be it enacted by the senate and house of representatives, in general court convened, That the northerly and southerly lines of each of the several towns aforesaid, be, and they hereby are continued and extended across said river, to the westerly line of this state ; which line shall hereafter be considered as the bounding westerly line of said towns.

Provided, nevertheless, That nothing in this act contained, shall be construed to affect the grants of any such islands, bridges, ferries, &c. heretofore made, nor prevent the

making of grants in future of such islands, bridges, ferries, locks, canals, and other conveniences for the publick benefit, nor the right of fishing in said river, and using the same as a publick highway as heretofore.

Approved January 6, 1795.

Passed Dec. 16, 1796. *AN ACT in addition to an act for regulating Towns and the Choice of Town Officers, passed February 8, 1791.*

WHEREAS in and by said act, it is among other things enacted, that where any town shall adjoin on any tract of land unincorporated, the perambulation may be so far as they join, exparte, and complaints having been made on that account ; For remedy whereof,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That said act shall extend to all unincorporated places, that are vested with all the powers which towns in this state by law have, so far as relates to the choice of assessors, selectmen and collectors, and such unincorporated places shall be considered to all intents and purposes, as the junior towns, and the selectmen or inhabitants shall be entitled to notice accordingly ; and the selectmen shall have the same powers, and be liable to the same penalties for all the purposes before mentioned, as the selectmen of towns.

Repealing clause.

SECT. 2. *And be it further enacted,* That the above recited clause, so far as it relates to unincorporated places that are vested with the powers of towns in this state, to make choice of selectmen, assessors and collectors, be, and hereby is repealed.

Approved December 16, 1796.

Passed Dec. 19, 1797. *AN ACT in addition to an act, entitled, " An act for regulating towns and the choice of town officers."*

Power of the moderator. SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That at any legal meeting held in any town in this state, where there is a moderator appointed to regulate said meeting, if any person or persons shall disturb said meeting, or not comply with the rules and regulations set forth in said act, then in that case, the moderator is hereby authorized and empowered to command any constable of said town, who is hereby authorized and directed to command such assistance as may be necessary, and carry such disorderly person or persons out of said meeting, and detain him or them until the business of said meeting is finished.

Duty of town clerk. SECT. 2. *And be it further enacted,* That it shall be the duty of the town clerk after the choice of a moderator, and before he enters on the business of said meeting, to read

all that part of said act that respects the powers and duty of moderators, together with this additional act, provided one or more persons in said meeting request it.

Approved December 19, 1797.

AN ACT in addition to an act, entitled, An act for regulating Towns and the Choice of Town Officers. Passed Dec. 13, 1804

BE it enacted by the senate and house of representatives, in general court convened, That the selectmen of each town in this state be, and they hereby are authorized and empowered to warn town meetings in their respective towns, by posting up the warrant therein in the same way and manner as they are now warned by constables, and the same term of time before said meeting as is by law now established, and all matters and business done and transacted at the meeting warned as aforesaid, shall be good and valid as though the same had been warned by a constable.

Approved December 13, 1804.

AN ACT directing that certain Town Officers shall be chosen by Ballot. Passed Dec 13, 1804.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the first day of June next all moderators who shall be chosen to govern town meetings in the several towns within this state, all town clerks, and selectmen, shall be elected and chosen by ballot, any law, usage or custom to the contrary notwithstanding.

Approved December 13, 1804.

AN ACT to prevent Undue Influence and Fraud in Town Meetings, and in the Choice of Town and State Officers. Passed June 14, 1799.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That if any person or persons at any town or district meeting within this state, legally warned, to transact the business thereof, in the choice of any town, county or state officer, or representative for such town, or district, or for representatives to congress, shall hereafter put into any box or hat, or cause to be received for the purpose of being counted, or cause to be counted in any other way or manner in said meeting, more than one vote, at any one balloting for any such officer or representative, or for any candidate for any town, county, state officer or representative as aforesaid, usually chosen by ballot, on conviction thereof, he or they shall forfeit and pay, for each and every such vote so put in, or cause to be

No person to put in more than one vote

This section repealed by act of 24th of June, 1814, Sect. 9.

penalty there-
for.

Moderator,
and select-
men's duty.

Penalty for
non perform-
ance.

Penalty for
receiving
votes by
proxy.

Town clerk's
duty.

counted in any other manner more than such person is entitled to by law, the sum of six dollars to be recovered by bill, plaint, or information, or suit, before any court proper to try the same, in the county where such offence is committed, one moiety thereof, to and for the use of the town or parish where the offender is an inhabitant, the other moiety to the use of the informant or person who will sue for the same with full costs.

SECT. 2. *And be it further enacted*, That if any moderator, selectman or selectmen, whose business it is by law to preside at any such town or district meeting within this state, shall knowingly and fraudulently receive and count any such vote so illegally and fraudulently put in by any person whomsoever, for the choice of any town, county, state officer or representative as aforesaid, or shall wittingly, knowingly or fraudulently embezzle from or add any vote to the number of votes legally given in such meeting for the choice of any town, county, state officer, or representative as aforesaid, usually chosen by ballot, he or they shall on conviction thereof, forfeit and pay for each and every vote so received and counted, embezzled or added, the sum of forty dollars, to be recovered and distributed in the same manner, form and proportion as above, in this act is directed.

SECT. 3. *And be it further enacted*, That if any moderator, selectman or selectmen, presiding at any town, or district meeting in this state, for the choice of any town or district officers, or any county or state officers or representatives to congress usually chosen by ballot, shall receive and count any vote given at said meeting by proxy and without the personal delivery of such vote by the person entitled to give the same, on conviction thereof, he or they shall forfeit and pay for each and every vote so received and counted the sum of twenty dollars, to be recovered and distributed in like manner as aforesaid; and it shall be the duty of the town clerk in every town in this state at the opening of every town or district meeting, when and where any of the foregoing officers are to be chosen, and before the business of such meeting is entered upon to read or cause to be read the foregoing act in said meeting.

Approved June 14, 1799.

Passed June
23, 1813.

AN ACT more effectually to secure to the citizens of this State their Rights of Suffrage.

Citizens to
vote where
they dwell.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this state, being a natural born or naturalized citizen of the United States, of twenty-one years of age, and upwards, excepting paupers, and persons

excused from paying taxes at their own request, shall have a right, at the annual and other meetings of the inhabitants of said towns and parishes, to vote in the town or parish wherein he dwells and has his home.

SECT. 2. *And be it further enacted*, That the selectmen of the several towns and parishes aforesaid, shall lodge with the clerk of the town or parish, and shall cause to be posted up in some publick place or places within such town or parish, fifteen days prior to any town meeting for the choice of state and county officers, representatives to congress, or electors of president and vice-president of the United States, an alphabetical list of all the legal voters in such town or parish; and it shall be the duty of the selectmen to place on said list the name of any legal voter which may have been omitted, on receiving satisfactory evidence thereof: and at every town meeting, for the purposes aforesaid, the town clerk shall check on said list the name of each voter; and in case any person shall offer to vote, whose name is not on said list, the moderator, in presence of the selectmen whose duty it shall be to attend, shall decide whether such person be a legal voter; and if it be determined that such person is entitled to vote at said meeting, his name shall be entered on said list, and checked in manner aforesaid. And the selectmen and town clerk shall assist in sorting and counting the ballots; but no other person shall in any wise interfere therewith. And it shall be the duty of the moderator of any town meeting, to cause the avenues to and from the place of voting to be kept clear, so that the legal voters may have access thereto, and pass without interruption.

Alphabetical list of voters to be posted up in the towns.

Moderator to decide as to right of voting.

SECT. 3. *And be it further enacted*, That the selectmen of the several towns and parishes aforesaid shall provide, at the expense of such towns and parishes, a suitable box or boxes, to receive the ballots of the legal voters; on which ballots shall be written or printed the name or names of the person or persons voted for; and the ballots shall be given in, in the manner following—that is to say: each voter shall deliver his ballot to the moderator, in open town meeting; and the moderator, on receiving the ballot, shall direct the town clerk to check the name of the voter, on the list to be provided as aforesaid; and the moderator shall, without inspecting the name or names of the person or persons voted for, examine the ballot so far as to determine whether the same contains more than one ticket; and if it do not, he shall place it in the ballotting box; but if said ballot contains more than one ticket, the moderator shall make it manifest to the meeting, and reject the same.

Boxes to be provided.

Manner of voting.

SECT. 4. *And be it further enacted*, That it shall be the duty of the moderator of any town meeting held for the choice of state and county officers, representatives to congress, or electors of president and vice-president of the

Moderator to declare state of votes.

United States, to declare in open town meeting, at the close of the poll, the state of the vote or votes; and no ballot shall be received and counted after the state of the votes shall have been declared as aforesaid.

No voter liable to arrest for debt on day of meeting.

SECT. 5. *And be it further enacted*, That during the day on which any town meeting shall be holden for the choice of state and county officers, representatives to congress, or electors of president and vice-president of the United States, no inhabitant of any town or parish, who is entitled to vote therein, shall be liable to arrest, on any civil process whatever.

Return of votes.

SECT. 6. *And be it further enacted*, That the number of ballots for governor, counsellor, and senator, shall be returned to the office of the secretary of the state, on distinct pieces of paper; and the return shall be signed by the town clerk, and in substance in the form following, viz.

Form of returns.

“At a legal town meeting, duly notified and holden at, on the day of, in the year, the following votes were given in for, which votes have been declared in open town meeting.

A true copy of record.

Attest.....

Town Clerk.”

Liquors not to be given to voters.

SECT. 7. *And be it further enacted*, That if any person or persons, in any town in this state, shall, directly or indirectly, give spirituous liquors to the voters of any such town, on the day of election, or at any prior or subsequent period, and it shall be made to appear that the same was done with a view to influence the election, or as a treat for their suffrage, or the honours bestowed on any candidate in the election; such person shall be deemed and considered as guilty of a breach of this act, and be liable to pay a fine not exceeding forty dollars, to be recovered on complaint before any court of competent jurisdiction, or on indictment of the grand jury before the superior court, for the use of the county in which the offence is committed.

Clerk to read this act.

SECT. 8. *And be it further enacted*, That it shall be the duty of the town clerk, in every town in this state, at the opening of every town or district meeting, when and where any of the foregoing officers are to be voted for, and before the business of such meeting is entered upon, to read this act, or cause it to be read, in said meeting.

State and county officers to be voted for on one ticket.

SECT. 9. *And be it further enacted*, That in balloting at any town meeting, for state and county officers, the moderator shall call for the ballots for governor, counsellor, senator, county treasurer, and register of deeds, or so many of said officers as it shall be necessary to vote for at said meeting, to be given in on the same ticket, with the respective offices designated against the name of the person voted for; and the same mode shall be observed in voting for representatives to congress, and electors of president and vice-

president, as is by this act provided in voting for state and county officers, with the exception that the votes for electors of president and vice-president shall be brought in on one piece of paper or ticket, and those for representatives to congress on another: *Provided, however,* That in voting for all of the aforesaid officers, no person shall be obliged to vote for every officer to be elected.

Approved June 23, 1813.

AN ACT in addition to, and in amendment of an act, entitled, "An act more effectually to secure to the citizens of this state their rights of suffrage." Passed June 24, 1814.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any person, at any meeting of any town or parish in this state, holden for the choice of any state or county officers, representatives to the general court, representatives to congress, or electors of president and vice-president of the United States, or any other officer or officers usually chosen by ballot, shall give in more than one vote or list for any officer or list of officers, then voted for at such meeting, he shall, for each and every vote or list of votes so put in, forfeit and pay the sum of thirty dollars; to be recovered by action, one moiety thereof to the use of the town or parish where the offence may be committed, and the other moiety thereof to the use of the person suing for the same.

Penalty for giving more than one vote, or list of votes.

SECT. 2. *And be it further enacted,* That if any person shall give any false answer or false name to the officer presiding at such meeting, while receiving evidence of the qualifications of any person, as aforesaid, he shall, for each and every such offence, forfeit and pay the sum of ten dollars; to be recovered by action, one moiety thereof to the use of the town or parish where the offence may be committed, and the other moiety thereof to the use of the person suing for the same.

Giving false answers or false names

SECT. 3. *And be it further enacted,* That the selectmen of any town or parish in this state, who shall neglect or refuse to make, post up, and lodge with the town clerk of the town or parish to which they may belong, a list of the legal voters in said town or parish, agreeably to the provisions of the second section of the act to which this is an addition, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered in any court proper to try the same; one moiety thereof to the use of the person who may sue therefor, and the other to the town or parish where such offence may be committed.

Penalty for selectmen neglecting or refusing to post up list of votes.

SECT. 4. *And be it further enacted,* That if the selectmen of any town or parish, as aforesaid, shall at any time after the posting up of the list of voters in such town

Penalty for refusing to erase from the list the names of illegal voters,

or to hear evidence of the want of qualifications in any persons whose names are on the lists.

Penalty on moderator who shall fraudulently receive and count illegal votes, or fraudulently reject legal votes.

Persons under 21 years of age voting,

penalty therefor.

Aliens, not naturalized, not to vote:

penalty.

or parish, as mentioned in the second section of the act to which this is an addition, and before the day of the town or parish meeting for the choice of the officers aforesaid, on application for that purpose, and on receiving satisfactory evidence that any person, whose name is on said list, is not legally qualified to vote for said officers, refuse to strike and erase from said list the name of any such person; or, if such selectmen shall refuse to hear and examine any evidence that may be offered or produced before them, within the time aforesaid, for the purpose of proving the want of qualifications in any person whose name may be placed upon said list as aforesaid; they shall, in either case, and for each and every such offence, forfeit and pay the sum of twenty dollars; to be recovered by action, one moiety thereof to the use of the person suing for the same, and the other moiety thereof to the use of the town or parish where the offence may be committed.

SECT. 5. *And be it further enacted*, That if the moderator of any town or parish meeting as aforesaid, shall fraudulently receive and count any vote or ballot given in by any person, knowing such person not to be a legal voter in such town or parish at the time; or, if the moderator of such town or parish meeting shall fraudulently reject or refuse to receive and count the ballot offered or given in by any person, knowing such person to be legally qualified to vote in such town or parish; he shall, in either case, and for each and every such offence, forfeit and pay a sum not exceeding fifty dollars, nor less than ten dollars; to be recovered by action, one moiety thereof to the use of the person suing for the same, and the other moiety thereof to the use of the town or parish where the offence was committed.

SECT. 6. *And be it further enacted*, That if any person, under the age of twenty-one years, at any meeting of any town or parish as aforesaid, shall give in any vote or ballot for any officer, or list of officers, then voted for at such meeting as aforesaid, such person, under the age of twenty-one years, so voting, shall, for each and every such offence, forfeit and pay the sum of ten dollars, to be recovered in an action of trespass, in any court proper to try the same; one moiety thereof to the use of the person suing for the same, and the other moiety to the use of the town or parish in which the offence was committed.

SECT. 7. *And be it further enacted*, That if any alien, not naturalized, at any meeting of any town or parish as aforesaid, shall give in any vote or ballot for any officer, or list of officers, then voted for at such meeting as aforesaid, such alien, not naturalized, so voting, shall, for each and every such offence, forfeit and pay the sum of thirty dollars; to be recovered by action, in any court proper to try the same; one moiety thereof to the use of the person suing for the same, and the other moiety thereof to the use of the town or parish where the offence was committed.

SECT. 8. *And be it further enacted,* That all actions for the penalties and forfeitures in this act mentioned, shall be commenced within six months after the offence is committed, and not afterwards. Limitation.

SECT. 9. *And be it further enacted,* That the first section of an act, entitled, "An act to prevent undue influence and fraud in town meetings, and in the choice of town and state officers," passed the 14th day of June, A. D. 1799, be, and the same is hereby, repealed. Repeal

SECT. 10. *And be it further enacted,* That it shall be the duty of the town clerk, in every town in this state, at the opening of every town or district meeting, when and where any of the foregoing officers are to be voted for, and before the business of such meeting is entered upon, to read this act, or cause it to be read, in said meeting. Act to be read.

Approved June 24, 1814.

AN ACT directing the mode of levying Executions against Town Corporations and certain other proceedings. Passed Dec. 20, 1797.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That when judgment shall be rendered against town corporations, in any civil suit, the goods and estate belonging to such corporation shall be answerable, and stand chargeable to satisfy said judgment, and execution may be sued out and levied as in other cases. And when the officer having such execution, cannot find any goods or estate belonging to such town corporation, he shall apply to the selectmen of said town, or any one of them, whose duty it shall be to pay and satisfy the same in money, if they have any in their hands, or in the town treasury; and if said selectmen have not money in their hands or in the town treasury, sufficient to discharge such execution, the said officer shall leave an attested copy of the same with said selectmen, who are hereby empowered to assess the inhabitants of such town in a sum sufficient to satisfy such execution with costs agreeably to law, and to collect such assessment by themselves, or a collector by them appointed, within thirty days from the time of such assessment being made; and if any collector, who shall have an assessment committed to him, with a warrant to collect the same by virtue of this act, shall neglect to collect and pay over to the selectmen, the sums mentioned in such assessment within thirty days after he shall receive the same, it shall be lawful for the selectmen to issue their extent against such collector.

SECT. 2. *And be it further enacted,* That when any selectmen shall be served with the copy of an execution agreeably to this act, and the same shall not be satisfied within sixty days from the time of such copy being left with Selectmen liable, &c

them, such selectmen, their persons, proper goods or estate, shall be liable and subject to be taken upon the execution so sued out, and the same may be so satisfied with costs.

Mode of summoning towns.

Selectmen may plead.

SECT. 3. *And be it further enacted*, That upon any indictment, presentment or information, against any town corporation, a summons shall issue against such town corporation, and shall be served by leaving an attested copy with the town clerk, or selectmen, or at either of their last and usual places of abode, and if there be no selectmen or town clerk, with an inhabitant of such town, at least thirty days prior to the sitting of the court, which shall be deemed a sufficient service and notice, and the selectmen, or their agent or attorney duly authorized by the town, shall be admitted to plead and defend in the name and behalf of the town, and upon due service being made, if the selectmen or the agent, or attorney, or other inhabitant so summoned do not appear, or appearing do not plead, the court shall order the general issue to be entered, upon which the merits shall be tried, and judgment rendered accordingly ; and all fines or amercedments duly set and imposed, may be levied and collected by execution or warrant of distress, in the name of the state, to be sued out upon the judgment in the same manner as is pointed out in this act, for collecting executions which issued on civil suits.

All actions shall be sued by the corporate name.

SECT. 4. *And be it further enacted*, That all actions or prosecutions, for or against any town corporation, shall be sued and prosecuted by the corporate name of the town and not otherwise.

Approved December 20, 1797.



Passed Dec. 23, 1791.

AN ACT to empower Watchmen to apprehend and commit Disorderly Persons as is herein after declared.

WHEREAS it is judged very expedient that a walking night watch should be kept in such towns in this state as shall think proper to support the same, to prevent house breaking, stealing, and other disorders, as well as to make seasonable discovery of fires ; but as the persons employed in that service may not have authority *ex officio*, to restrain any one they have reason to suspect or find engaged in any such crimes, they may be exposed to insults and suits : wherefore for their security, and to enable them the better to effect that part of their duty :

Selectmen to appoint watchmen.

*Be it enacted by the senate and house of representatives, in general court assembled,** That the selectmen in any town which have, or shall at any legal meeting, determine to maintain such a night watch, are hereby authorized to agree with so many suitable persons as the town have, or shall order as aforesaid, for performing a walking night watch

* By mistake for the word *convened*, which the constitution requires.

in such town, and appoint their limits and station, and all things requisite for said service, and to give them such instructions as they shall judge proper for the best execution of the office of such watchmen, as also to pay them according to such agreement. And such watchmen shall have by virtue hereof, full power to restrain any person or persons they shall find committing any kind of disorder or disturbance, or any crime, or such as are strolling about the streets or high ways at unseasonable hours, who refuse to give any, or may justly be suspected to give a false account of their business or design, or who can give no account of the occasion of their being out. And for this purpose, such watchmen are hereby authorized to command assistance as occasion shall require, and to commit the offenders to the common gaol, where that may be done, or put them under keepers, till they can be carried before one or more justice or justices of the peace for said county, which such watchmen are hereby authorized and directed to do as soon as may be the next day, in order to the examination of such offenders, and their being dealt with according to law. And the said watchmen are hereby authorized to execute and discharge the duty and instructions, which they shall receive from time to time from the selectmen, with whom they shall agree as aforesaid, and are accordingly directed so to do; and shall be under oath, to be administered by any justice of the peace for said county, to the faithful discharge of their trust, agreeable to their contract with the selectmen. And every person duly required and commanded to assist the said watchmen, or any of them, to apprehend or keep any of the offenders aforesaid, or to commit them pursuant to this act, who shall neglect or refuse so to do, shall be liable to the same penalty by law inflicted for neglecting or refusing to assist the sheriff in cases where they are by law required.

Their power
to restrain,
&c.

To command
assistance,
&c.

To be under
oath.

Penalty of
persons refus-
ing to assist.

Passed December 23, 1791.

AN ACT for establishing an equitable method of making Taxes, and for ascertaining the Powers of Selectmen. Passed Feb. 8, 1791.
[Sept. 15, 1792.]

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That the selectmen of the several towns in this state, be, and they hereby are authorized, empowered and required seasonably in every year to assess the polls and estates within such towns according to the rules and directions of the law, their just and equal proportion of all sums of money, granted by the general court, for which they shall have a warrant under the hand and seal of the treasurer of this state for the time being, and their proportion of all sums of money voted and agreed to be raised by the justices of the court of general sessions of the peace in the same county, for which they shall

Selectmen to
make assess-
ments.

have a warrant under the hand and seal of the treasurer of the same county ; and all such sums of money as shall be voted to be raised at any legal meeting by the inhabitants of their town ; and they shall also assess the polls and estates within such town, all such sums of money, as they may by any law of this state be authorized and empowered to assess. And the selectmen may from time to time, if they judge it necessary and convenient, in assessing the state, county and all other taxes, assess a sum over and above the sum required to be assessed, not exceeding one shilling on every pound required to be assessed, to answer any abatement that may be necessary in collecting such taxes ; and the said overplus sum shall be paid to the town treasurer, or to the selectmen, for the purposes aforesaid, and for the use of such town or place.

Warrant to
collectors.

And the selectmen shall make lists of all such assessments under their hands, and commit the same unto the collector or collectors of their respective towns, with a warrant under their hands and seal in due form of law : and in such lists shall be set down and expressed the names of all the inhabitants or residents therein taxed for their polls and estates, or estates only, and their several proportion of each tax ; and a particular description as herein after mentioned of the estate of any persons taxed in such lists, who are not inhabitants of such town, and the proportion of such estate to each tax. And the said selectmen shall cause a fair entry and record to be made of all invoices by them taken, and assessments by them made, in a book of record of the doings and proceedings of the selectmen in their said office, which book shall be the property of, and shall be open to any of the inhabitants of said town.

Assessments
and invoices
to be record-
ed.

And the said selectmen shall also have their assessments recorded by the town clerk in the book of records belonging to such town, or shall leave an attested copy with him seasonably for that purpose, and a copy of the invoice from which the assessment was made, shall be recorded or left with the town clerk in manner aforesaid, that the inhabitants or others rated may inspect the same.

Selectmen to
return names
of collectors.

SECT. 2. *And be it further enacted,* That the selectmen of the several towns shall seasonably return to the respective treasurers, or persons to whom they shall order the collector to pay any sum or sums of money, the name or names of the collector or collectors within their respective towns, with an account of the sums he is ordered to collect and pay to them respectively, the date of the warrants given to him for that purpose, and the time when he was ordered to pay the same to the respective treasurers aforesaid.

Inventories.

SECT. 3. *And be it further enacted,* That the inhabitants of the several towns within this state, shall annually exhibit to the selectmen a just and true account of their

polls and estates rateable by law. And the selectmen shall give warning at any publick meeting, or post up notifications at some publick place or places in such town, or in some other way notify the respective inhabitants of such town, of the time and place in such town, when, and where they will meet to receive such account, and the said selectmen may make personal application to the respective inhabitants of such town, for an account of their polls and rateable estate, in the manner usually practised in this state, or in any manner such town may agree upon, and said invoice shall be taken, of what the respective inhabitants shall be possessed of on the first day of April annually, and shall be taken sometime in the same month; and in case any person shall remove from any town after the first day of April, he shall pay his taxes that year in the town from whence he removed, and if any person shall neglect, after being duly notified, or shall refuse when called upon in person, by any of the selectmen to give a true account of his poll and rateable estate on oath, if required, which oath any selectman is hereby empowered to administer, the selectmen may set down to such person or persons as much by way of dooage as they shall judge equitable, and make the assessment accordingly, which shall not be abated by the sessions, unless in cases where the person is unable to exhibit a particular account, and offers to make oath that that is the real case, and that he has used every endeavour in his power to enable him to make out such account.

SECT. 4. *And be it further enacted*, That if any person in giving in an account to the selectmen of his estate rateable by law, shall not give in the whole of his estate so rateable, but shall conceal some part thereof from the knowledge of such selectmen, they may for any estate so concealed and not given in, upon discovery of the fraud, rate such person in all taxes of that year, four times as much as such estate, if given in by the owner would by law have been rated or taxed.

Penalty for
returning
fraudulent in-
ventories.

SECT. 5. *And be it further enacted*, That the selectmen be, and they hereby are empowered to abate any taxes, as well those assessed by their predecessors, as by themselves, of any person applying for the same, provided sufficient reason for such abatement be shewn; and if the selectmen deny or refuse to make such abatement, the person conceiving himself aggrieved by any tax or assessment, may apply by way of petition, except in the case before mentioned, to the court of general sessions of the peace in the same county, who are hereby empowered to make such order on the premises as justice may require. Provided that such application be made within nine months after such person shall have been notified of such assessment, and requested to pay the same.

Abatements.

And provided always, That the court of general sessions of the peace shall not have power to abate any taxes, except as to such articles and matters as the selectmen having the power of valuing, shall in the judgment of said court have overvalued.

Selectmen liable in case of neglect to assess, &c.

SECT. 6. *And be it further enacted,* That if the selectmen of any town in this state, having received the state treasurer's warrant, requiring them to assess any sum or sums of money on the polls and estates within their respective towns, shall neglect to assess the same within the time, in the manner and according to the directions given in such warrants, the same being agreeable to law, the persons and estates of such selectmen shall be liable, and hereby are subjected to be taken in execution for the same, to be issued, served and executed in all respects as the law prescribes in the case of neglect of collectors in paying the sums contained in their lists; and the said treasurers are hereby authorized and empowered to issue their executions against such selectmen accordingly, and such selectmen shall have no remedy against the inhabitants of such town for any thing, except the sum mentioned in the treasurer's warrant, when they shall have paid the same, and in any suit to be brought for the recovery of the same, the said selectmen shall recover no costs, nor any damages by reason of such execution; and in case the selectmen shall neglect to return the name or names of the collector or collectors to whom they shall commit any list of state, county, or town taxes, to the treasurer of the state, county or town agreeably to the directions given them by the state treasurer, county treasurer or towns respectively, they shall be liable to executions from the said treasurers respectively, in the same manner as in cases where they neglect to make any assessment, and shall have no remedy against the inhabitants of their respective towns for any thing, but the sums by them actually paid to the said treasurers, and shall recover no costs in any suit brought for the recovery of the same. And in all cases where an execution is issued against selectmen for neglect of assessing taxes, or neglect of returning the name of the collector, the same shall be issued against the selectmen, whose duty it was to assess such tax, and to return the name of such collector; and in case no estate of such selectmen can be found whereon to levy the same, and their bodies cannot be found to be imprisoned, and the same shall be so returned by the sheriff, to whom the same execution may be directed to be returned, an execution for the same sums may then be issued against the inhabitants of such town in the same manner, as in the case where such inhabitants had neglected to choose any selectmen or assessors.

Mode of taxing real estate

SECT. 7. *And be it further enacted,* That all personal estate, and all buildings and real estate, shall be taxed to

the person claiming the same, who is in the possession and actual occupancy thereof; and when the owner of any lands and personal estate shall be deceased, the same may be taxed to the widow, any of the children, heirs, or any other person who will consent to be considered as in possession thereof; but if no person will consent to be taxed therefor, the same shall be taxed generally to the heirs of such deceased; and when any person shall be living in any house, or on any farm on the first day of April, and shall not be the owner thereof, and shall refuse to give the same unto the selectmen as his estate, the same shall be particularly described in the tax bill as under the occupant, naming him on the first day of April, and the number of acres as near as may be estimated, the number of the lots, or such other description shall be given as the said land, farm or buildings are commonly known by; and in case no person shall be in actual possession of any house, which is in the judgment of the selectmen tenantable, or any real estate improved as pasture, mowing, arable or otherwise, and the same shall not be owned by any inhabitant or resident in such town or parish, the said house and land shall be particularly described as aforesaid, and shall be taxed in such lists without mentioning the owner, unless the owner thereof be known to the selectmen, in which case his name shall be mentioned.

SECT. 8. *And be it further enacted*, That the selectmen shall be, and hereby are empowered to assess all buildings, other than such as are before mentioned, and unimproved lands owned by non-resident proprietors, in their respective towns and places, their just proportion of the state and county taxes, estimating their value as the law directs, and in such lists a particular description of the number, division, quantity and situation of the lands so taxed shall be expressed, and the name of the present owner, if known, otherwise the name of the original owner or person to whom the same was drawn, and the proportion of each lot or division to each tax shall be set down and expressed in such list.

and estate of
non residents.

See acts of
Dec. 10, 1796,
p. 264, 30 Dec.
1803, and
21 Dec. 1808

SECT. 9. *And be it further enacted*, That all rates and taxes shall be made and assessed in proportion to the amount of each person's poll and rateable estate, which shall be estimated as follows (namely) all male polls, from eighteen to seventy years of age, ten shillings each; horses and oxen which have been wintered five winters (reckoning the winter to begin on the first day of December and to end the last day of March) at three shillings each; cows which have been wintered five winters, two shillings each; cattle and horses which have been wintered four winters, one shilling and six pence each; cattle and horses which have been wintered three winters, one shilling each; cattle and horses which have been wintered two winters, six pence each; improved lands to be estimated as follows, viz.

Rateable es-
tate how esti-
mated.

See act of
Dec. 16, 1813,
p. 263.

orchard land one shilling and six pence per acre, accounting so much for an acre as will produce ten barrels of cider or perry one year with another ; arable land one shilling per acre, accounting so much an acre as will produce one year with another twenty-five bushels of Indian corn, or other grain equivalent ; mowing land one shilling per acre, accounting so much land as will produce one year with another, one ton of English hay, or other hay equivalent to be one acre ; pasture land at five pence per acre, accounting so much as will summer a cow to be four acres ; all mills, wharves and ferries to be estimated at one twelfth part of their neat yearly income ; and all other buildings, and the unimproved lands owned by the inhabitants and non-residents to be estimated at the rate of half of one per cent. of the real value thereof ; all stock or property, whether of a tanner, currier, blacksmith or other tradesman employed in the business of their trade, and all stock whether money or goods, improved in trade or merchandize, shall be estimated at three quarters of one per cent. of the value thereof more than the owner gives interest for, excepting what is due on publick securities of this state ; money on hand, or at interest shall be estimated at three quarters of one per cent.

SECT. 10. *And be it further enacted*, That when any alteration shall be made in the mode of estimating polls and estate, the same shall be expressed in the warrant of the state treasurer for raising the next state tax there afterward.

Passed February 8, 1791.



Passed Dec.
1, 1812.

AN ACT in addition to an act, entitled, "An act for establishing an equitable method of making taxes, and for ascertaining the powers of selectmen"—Passed Feb. 8, 1791.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the guardians of minors, of idiots, of distracted persons or persons non compos mentis, and of idle persons, shall annually exhibit to the selectmen of the respective towns in this state a just and true account of the rateable estates of their respective wards, in the same way and manner as the inhabitants of towns are required by the act to which this act is in addition, to exhibit an account of their own estates rateable by law.

SECT. 2. *And be it further enacted*, That it shall be the duty of guardians to pay all taxes legally assessed upon their wards ; and that the taxes by them so paid, shall be a proper article of charge to be allowed on settlement of their guardianship accounts. *Provided, nevertheless*, That it shall be

the duty of the selectmen to make such deduction from the inventory of the estates of distracted persons, or persons non compos mentis, as they shall think just and reasonable ; whenever it shall appear that the income of their estates is insufficient to support them.

Approved December 1, 1812.

AN ACT to establish the Rates at which Polls and Rateable Estates shall be valued in making and assessing Direct Taxes. Passed Dec. 16, 1812.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That hereafter all publick taxes shall be assessed on the polls and rateable estates in manner following, namely: each male poll from eighteen to seventy years of age (except those from eighteen to twenty-one, enrolled in the militia, ordained ministers, the president, professors, tutors and students of colleges, paupers and idiots) to be valued at one dollar and thirty cents: stallions or stud horses that have been wintered three winters, each at five dollars; other horses and mares that have been wintered five winters, each at seventy cents: other horses and mares that have been wintered four winters only, each at fifty cents; other horses and mares that have been wintered three winters only, each at thirty cents; other horses and mares that have been wintered two winters only, each at ten cents; each jack that has been wintered three winters, at two dollars and fifty cents; mules that have been wintered four winters, at fifty cents; other mules that have been wintered three winters only, at thirty cents; other mules that have been wintered two winters only, at ten cents each; oxen that have been wintered five winters, each at forty cents; oxen that have been wintered four winters only, each at thirty cents; cows that have been wintered four winters, each at twenty cents; all neat stock that have been wintered three winters only, each at ten cents; all neat stock that have been wintered two winters only, each at five cents: reckoning the winter to begin the first day of December, and to end the last day of March: orchard land, accounting so much for an acre as will one year with another make ten barrels of cider or perry, each acre at thirty cents; arable land, accounting so much for an acre as will produce twenty-five bushels of Indian corn, or other grain equivalent, one year with another, at twenty cents; mowing land, accounting so much for an acre as will produce one ton of English hay, or other hay equivalent, one year with another, at twenty cents; pasture land, accounting so much as will keep one cow one year with another four acres, each acre at five cents; mills, carding machines, wharves and ferries, to be estimated at one twelfth part of

Polls.
Stallions,
horses and
mares.
Jacks and
mules.
Oxen,
Cows and oth-
or neat stock.
Improved
lands.
Mills
wharves, fer-
ries, &c.

their net yearly income, after deducting repairs : all other buildings and unimproved lands, whether owned by inhabitants or non-residents, at half of one per cent. of their real value : all stock or property, whether of tanners, curriers, blacksmiths, or other tradesmen, employed in the business of their trades, and all stock in trade of merchants, shop-keepers or other traders, reckoning the same at the average value thereof for a year at half of one per cent. : all bank shares, all money on hand or at interest, more than the owner pays interest for, at three quarters of one per cent. : all property in the publick funds, to be estimated at the same rate, according to its real value ; all chaises, sulkies, coaches and other wheel carriages of pleasure, or for the conveyance of persons, at half of one per cent. of their real value.

SECT. 2. *And be it further enacted*, That the act entitled an act to establish the rates at which polls and rateable estates shall be valued, in making and assessing direct taxes, passed Dec. 19, 1803, and the several acts in addition thereto, be, and the same hereby are repealed.

Approved December 16, 1812.

Passed Dec.
10, 1796.

AN ACT for taxing the Lands and Buildings of Non-residents.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the improved lands and buildings of non-resident owners shall hereafter be taxed in the respective towns and places where such lands are situated, their equal proportion with residents, in all assessments made for the support of the publick highways and schools, and in all town taxes, except for the support of the gospel, and the building of houses of publick worship, and repairs thereof, to be collected in the same manner as the law now points out for the collection of state and county taxes.

SECT. 2. *And be it further enacted*, That the unimproved lands of non-residents, publick lands excepted, shall hereafter be taxed in the respective towns and places their equal proportion of all state and county taxes, and assessments made for the support of publick highways. *Provided always*, That the tax on the unimproved lands of non-residents for the support of publick highways, shall not in any one year exceed the sum of fifty cents on every hundred dollars of the appraised value of said lands, which appraisement shall be made by the selectmen, and be in the same manner and proportion as the law now points out for appraising the unimproved lands of the residents, to be assessed and collected in manner following, to wit : The selectmen or assessors, in their respective towns and places, shall make

out in writing, under their hands, and deliver the same to the several collectors, on or before the thirtieth day of May annually, a list of all such assessments, and insert therein the name of the owner, if known, otherwise the name of the original proprietor, and the number of acres taxed, and the number of the lot and range; and the proportion of each assessment to each lot or tract of land taxed, shall be set against said lot or tract of land in the list aforesaid: And if any building of a non-resident shall be taxed, the number of the lot, or other description of the land whereon it stands, shall be mentioned in said list: And if the name of the owner and the original proprietor of any land be unknown, the quantity of land, the number of the range and lot, if lotted, otherwise such description of the land taxed as it is usually known by, being inserted in said list, shall be a sufficient description of said land.

SECT. 3. *And be it further enacted*, That each non-resident, taxed as aforesaid in any town or place in this state, shall at any time from the making of said highway-tax to the first day of September in the same year, have liberty to pay said tax in labour, at the rate of six cents per hour for an able bodied man, finding his own tools and diet; which labour shall be done under the direction of either of the selectmen of the town where said labour is to be done, whenever the said non-resident shall tender the same to the said selectman within the time limited for that purpose.

Non-residents may pay highway tax in labour.

SECT. 4. *And be it further enacted*, That every collector of said taxes shall, on or before the eighth day of the next session of the general court after the assessments of such taxes, deliver to the deputy secretary for the time being, a copy of his list of all such taxes made out as aforesaid, signed by the selectmen of the town or place for which he is collector: And the said deputy secretary shall, for the inspection of all persons concerned, keep said list during the remainder of said session, at the place where said court shall be holden, and afterwards, until the first day of September next following the said session, in the town where he shall reside: And it shall be the duty of the said deputy secretary, whilst said lists shall be in his hands, to receive of any non-resident his proportion of said taxes, and give his receipt in discharge of the same to the said non-resident, who shall pay to the said deputy secretary, for his trouble, at the rate of ten per cent. on the sum paid by the said non-resident to the said deputy secretary for taxes: And the said deputy secretary shall, at any time after the said first day of September, on application made to him by a collector of any of the taxes aforesaid, or by his order, return to said collector a copy of his list aforesaid, and the money which he shall have received thereon, taking said collector's receipt for the same: And after the said

Duty of collectors.

Duty of deputy secretary.

Collectors notification for sale.
 p. 269.
 Mode of sale.

first day of September, any of said collectors who may have received copies of their lists from said deputy secretary, shall publish a notification in the New-Hampshire Gazette, and also in some newspaper published in the county where the land is situated, if any such paper be printed in said county, otherwise in some adjacent county, and a similar advertisement posted up in some publick place in the town or place where the lands lie, three weeks successively, commencing eight weeks prior to the day of sale, that so much of such delinquent owner's estate will be sold at publick vendue, as will be sufficient to pay his said taxes, with incidental charges, unless prevented by previous payment; and the said notification shall contain the same description of the land taxed, as this act requires should be made in the lists aforesaid; also the time and place of sale: And if any of said owners shall neglect to pay their proportion of said taxes, with incidental charges, until the time of sale, the said collector shall then sell at publick auction to the highest bidder, so much of each delinquent's estate as will pay said taxes, with incidental charges: *Provided*, That every sale by virtue of this act shall be made in the town or place where the property sold shall be situated, and between the hours of ten of the clock in the forenoon and six of the clock in the afternoon of the same day; and if necessary, the sale may be adjourned from day to day, not exceeding three days, by publick proclamation made within the hours aforesaid at the place of sale: and no person shall be holden to pay any part of the cost which shall accrue at said auction, after the tender of the payment of his own taxes, with his proportion of the cost which shall have accrued before such tender.

Each one to pay his proportion.

SECT. 5. *And be it further enacted*, That if any more than one person shall be interested in any lot or tract of land, each one may pay his proportion of taxes, according to his interest in said land, and the share of the delinquent only shall be sold.

Redemption.

SECT. 6. *And be it further enacted*, That each non-resident, his heirs, or assigns, shall have the liberty of redeeming his land sold as aforesaid, at any time within one year from the sale thereof, by paying or tendering to the collector, his executor or administrator, or in their absence, by tendering at the usual place of abode of said collector, his executor or administrator, a sum of money equal to that for which said land was sold, with interest for the same until the time of payment or tender as aforesaid: And it shall be the duty of said collector, to deliver to the clerk of the town where the land lies an attested copy of the sale of lands by him sold in virtue of this act, with the charges of sale, within ten days after the sale thereof, to be by him kept on file; and in case of absence of said collector, his executor or administrator, on tender being made at his usual place of abode

as aforesaid, said non-resident shall give information thereof to said town clerk before the time of redemption expires, who shall without delay record the same in his office ; and said non-resident shall leave the money so tendered, with said town clerk, for the use of said collector, at the time of giving such information : And it shall be the duty of said collector, his executor or administrator, on payment or tender as aforesaid, or of the town clerk on the money being left with him, to give said non-resident a full discharge therefor, by receipt under his hand ; and in case of the money being received by the town clerk as aforesaid, he shall be paid therefor by said non-resident, ten per cent. on the amount of the money so received.

SECT. 7. *And be it further enacted*, That when two or more persons are interested in any lot or tract of land which shall be hereafter sold for the payment of taxes made by virtue of this act, every individual may redeem his own part thereof, by paying or tendering his proportion of the taxes and cost for which the said land was sold, in the same manner that all the owners of such land may redeem their land sold as aforesaid, by jointly paying the whole sum necessary to be paid for the redemption of the same ; and the said proportion shall be made according to the number of acres in the lot or tract of land sold.

Where several interested each may redeem his part

SECT. 8. *And be it further enacted*, That when any estate of non-residents shall be sold by virtue of this act, and the money requisite for the redemption thereof shall not have been paid or tendered within one year from the sale of the same, the collector who shall have sold said estate, if living, otherwise his executor or administrator, shall then execute a good and sufficient deed of such estate to the purchaser of the same, if he shall be then living, otherwise to his heirs, executors or administrators ; which deed shall be in the form following, to wit :

Collectors to execute a deed.

Know all men by these presents, That I, collector of taxes for the town of, in the county of, in the state of New-Hampshire, for the year, do, by virtue of the authority in me vested by the laws of this state respecting the property of non-residents, and in consideration of, to me in hand, before the delivery hereof, paid by, of, in the county of, in the state of, hereby sell and convey to him the said, his heirs and assigns, [*here describe the property sold.*]

Form of deed.

To have and to hold the said granted premises, with the appurtenances thereof, free of all incumbrances to him the said, his heirs and assigns forever. And I the said, do hereby covenant with the said, that I have, in my said capacity, good right to sell and convey the same in manner aforesaid : And that I will warrant and defend the same to him the said, his heirs and assigns,



against the lawful claims and demands of all persons whomsoever.

In witness whereof, I have hereunto set my hand and seal, this day of, Anno Domini,

Signed, sealed and delivered
in the presence of us,

Exemption
from high
way taxes in
certain cases.

SECT. 9. *And be it further enacted*, That no town or place which has been authorized by a special act to tax the lands of non-residents for the support of publick highways, shall be enabled hereby to tax the unimproved lands of non-residents for that purpose, within two years from the passing of such special act.

Towns may
exempt non-
residents
from taxation.

SECT. 10. *And be it further enacted*, That the inhabitants of any town at their annual meeting, if an article be inserted in the warrant for that purpose, may exempt the unimproved lands of non-residents from all or any part of the taxes aforesaid.

Repealing
clause.

SECT. 11. *And be it further enacted*, That such parts of all acts heretofore passed, as relate to assessments made by any town or place on the unimproved land of non-residents, for the payment of state and county taxes, be, and they hereby are repealed.

Proviso.

Provided, nevertheless, That nothing herein shall affect the collection of any taxes heretofore made by virtue of any acts hereby repealed.

Duty of sev-
eral officers.

Provided also, That it shall be the duty of the deputy secretary, the town clerks, and collectors to receive from any person, when tendered in behalf of himself or any other person whomsoever, in the manner and at the times before pointed out in this act, the taxes assessed by virtue thereof, and interest and cost thereon, if any; any thing in this act to the contrary notwithstanding.

Duty of se-
lectmen.

SECT. 12. *And be it further enacted*, That it shall be the duty of the selectmen or assessors of the several towns and places in this state to see that all monies arising by virtue of this act, for the support of publick highways, be duly and seasonably appropriated agreeably to the true intent and meaning thereof.

Approved December 10, 1796.

Passed Dec.
21, 1808.

AN ACT in addition to an act, entitled, " An act for taxing the Lands and Buildings of Non-residents," made and passed Dec. 10, 1796.

BE it enacted by the senate and house of representatives, in general court convened, That no town or place, which has been authorized or shall hereafter be authorized by a special act to tax the lands of non-residents for the support of publick highways, shall hereafter tax the unimproved lands of

non-residents for that purpose within two years from the passing of such special act; any law, usage, or custom to the contrary notwithstanding.

Approved December 21, 1808.

AN ACT in addition to, and amendment of an act, entitled, "An act for taxing the Lands and Buildings of Non-residents," approved Dec. 10, 1796. Passed Dec. 23, 1808.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That whenever any lands or buildings of non-residents shall be sold at vendue by any collector of taxes, agreeable to the provision of the act to which this is an amendment, it shall be the duty of said collector to lodge with the town clerk of such town, within ten days after the vendue and sale aforesaid, the newspapers containing the advertisements of such sale, and the notification which was posted up in said town, with a certificate accompanying the same, under oath, that said notification was posted up according to law; which notification and certificate shall be recorded by said town clerk, and a certified copy of said record shall be deemed sufficient evidence in any court of law, of those facts; and the said newspapers shall be kept on file by said town clerk. Duty of the collector.

Notifications and certificates to be recorded.

SECT. 2. *And be it further enacted,* That it shall be the duty of every collector of non-resident taxes to lodge with the town clerk of said town, within ten days after the time of redemption from any sale by him made by virtue of said act, a correct list of all lands and buildings which have been redeemed from said sale, to be recorded by said town clerk. List of lands to be lodged with town clerk.

SECT. 3. *And be it further enacted,* That each town clerk within this state shall receive the same fees for recording, copying, and certifying as aforesaid, as clerks of the courts of common pleas are by law entitled to receive for recording and certifying papers. Town clerk to be paid.

Approved December 23, 1808.

AN ACT to establish the Printing of all Notifications and Advertisements, for the sale of Non-resident lands, in the Concord Gazette, printed at Concord, in the County of Rockingham. Passed June 24, 1814.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the first day of September next, all the notifications and advertisements, which are, by the act passed on the tenth day of December, A. D. 1796, entitled, "An act for taxing lands and buildings of non-residents," required to be publish-

ed in the New-Hampshire Gazette, shall be inserted, agreeable to the provisions of said act, in the Concord Gazette, printed at Concord, in the county of Rockingham, instead of the said New-Hampshire Gazette.

Repeal.

SECT. 2. *And be it further enacted*, That so much of the aforesaid act, which passed December the tenth, A. D. 1796, as required that all the notifications and advertisements, for the sale of non-resident lands, shall be published in the New-Hampshire Gazette, be, and the same is hereby, repealed.

Approved June 24, 1814.

Passed Dec.
15, 1796.

AN ACT to establish the Fees of Collectors in the sale of Non-resident Lands for Taxes.

Fees

SECT. 1. **BE** it therefore enacted by the senate and house of representatives, in general court convened, That the fees of the several collectors in this state, in the sale of non-resident lands for taxes, shall be as follows, to wit: for going to the deputy secretary for the copy of the list, from thence to the place where the advertisements for sale are to be printed, and returning home, five cents per mile; for advertising in the county paper and in the town, one dollar, for making the sale one dollar per day and the same sum for a clerk; for each deed made and executed to purchasers twenty-five cents, the sums of money actually paid to the printers and the deputy secretary for the copy of the list, shall also be a legal charge; and it shall be the duty of each collector to make out an equal proportion of the cost taxed as herein before directed, to each lot or tract of land sold or advertised as aforesaid.

Cost apportioned.

SECT. 2. *And be it further enacted*, That if any collector shall demand or take any greater fee or fees for any of the services mentioned in this act, he or they shall forfeit and pay the sum of five dollars to the person suing therefor, to be recovered by action of debt in any court proper to try the same, besides being liable to an action of damage, by and for the party injured, to recover back the sum or sums so unlawfully taken.

Penalty.

Approved December 15, 1796.

Passed Dec.
9, 1800.

AN ACT allowing a larger per centum of interest to Purchasers of land sold at publick vendue by Collectors of Taxes, than is by law now established.

BE it enacted by the senate and house of representatives, in general court convened, That every purchaser of land, sold at publick vendue by any collector of taxes, for the collection thereof, shall be entitled to have and receive, at the rate of twelve per centum per annum, upon his said purchase money, instead of six per centum, as is by law

now established: and all sheriffs, proprietary collectors, and all other collectors of taxes on land sold as aforesaid, are hereby authorized and directed to govern themselves accordingly, any law, usage or custom to the contrary notwithstanding.

The foregoing bill having passed both houses of the general court, was on the 3d day of December, 1800, presented to the governor for his approbation and signature. On the 6th day of the same December it was returned by the governor to the house of representatives in which it originated with his objections. On the 8th day of the same December, on reconsideration, it was passed by more than two thirds of that house, and was sent to the senate with the governor's objections; and on the 9th day of the same December, on reconsideration, it was passed and approved by more than two thirds of the senate, and so became a law, December 9th, 1800.

AN ACT in addition to an act, entitled, "An act for taxing the Lands and Buildings of Non-residents." Passed Dec 30, 1803

BE it enacted by the senate and house of representatives, in general court convened, That the unimproved lands of non-resident owners, shall hereafter be taxed in the respective towns and places where such lands are situated, their equal proportion with residents, in all assessments made for schools, and in all town taxes, except for the support of the gospel and the building of houses of publick worship and repairs, to be collected in the same way and manner that the law now points out for the collection of state and county taxes, any thing in that act to the contrary notwithstanding.

Approved December 30, 1803.

AN ACT declaring the Duty and defining the power of Collectors of Taxes. Passed Feb. 11, 1791.
[Sept. 15, 1792.]

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That it shall be the duty of the collectors in every town or place in this state, seasonably to collect all the taxes assessed on such towns or places, for which they shall have sufficient warrants, under the hands and seal of the selectmen of such town or place; and to pay the same according to the directions given in such warrant.

Duty of collector.

And every collector to whom any list of taxes with a warrant in due form of law shall be committed to collect, shall give fourteen days notice to the inhabitants or residents taxed in such list, of the sum or sums at which they are assessed in such list, before he make any distress therefor; unless in cases, where such collector hath just reason to think any person is about removing out of his town or pre-

To give fourteen days notice before distress

cinct. And upon the neglect or refusal of payment of any inhabitant or resident taxed in such list, the said collector, is hereby empowered to distrain the goods or chattels of the person so neglecting or refusing.

Mode of proceeding in case of distress.

And the said collector shall keep such distress the space of four days (unless the money for which such distress is taken shall be sooner paid) at the cost and charges of the owner thereof, and if the owner do not pay the sum or sums so assessed upon him, and the costs and charges which have already accrued, within the space of four days, the said collector shall proceed within forty-eight hours after the expiration of said four days, to sell at publick auction, within the said town or place, the said distress; and notice of the place, day and hour of such sale, which shall be some time between ten of the clock in the forenoon, and five in the afternoon, and a particular description of the goods and chattels so to be sold, and of the species, whether money or paper, for which the distress is taken, shall be posted up in two publick places in such town or place twenty-four hours before the time of sale. And a particular account in writing, of the taxes of the delinquent, in what payable, the collector's fees, the charges of keeping and selling such distress, the amount of the sale of each article, with the overplus, if any, after the taxes and all necessary charges are deducted, shall be delivered immediately upon such sale, to the former owner, or ready to be delivered to him on request made.

Delinquent's body liable.

And for want of goods or chattels, whereon to make distress, the said collector may take the body of the person refusing or neglecting to make payment as aforesaid, and him commit unto the common gaol in the same county, there to remain until the same be paid, or he be discharged therefrom by due course of law.

And in case any inhabitant or resident, shall, after the first day of April in any year, and before he shall have paid his taxes for that year, remove from the town or place where his invoice was taken, and his poll and estate lawfully taxed, into any other town or place in this state, the collector shall have the same remedy against the estate or body of such person, found in any part of this state, as he would by law have had in case such person had not removed.

Duration of collector's power.

SECT. 2. *And be it further enacted*, That all the powers vested by law in collectors of taxes, shall continue 'till they have collected all the taxes to them severally committed to collect.

Goods exempted from distress

Provided always, That in no case whatever, distress shall be made or taken of any person of his tools or implements necessary for his trade and occupation, nor of his arms or utensils of household, necessary for upholding of life, nor of bedding or apparel necessary for him or his family.

SECT. 3. *And be it further enacted,* That when any collector shall take the body of any person, for want of goods or chattels, whereof to make distress, and shall commit him to prison, he shall give an attested copy of his warrant to the keeper of the prison, and thereupon certify under his hand, the sum or sums such person is taxed in his list or lists, and that he hath taken the body for want of goods or chattels whereon to make distress; and such attested copy and certificate thereon, shall be a sufficient warrant to require the prison-keeper to receive and detain such person in his custody, until he pay the sums so certified, costs of commitment and charges of imprisonment, or be otherwise thereof discharged by due order of law.

Collector to leave a copy of his warrant upon committing a delinquent.

SECT. 4. *And be it further enacted,* That when any owner or proprietor of any land or other real estate, shall remove out of the town or place where such land or other estate lies, after the same is assessed, to any other town or place in this state, or out of the limits thereof, and shall not have paid the sums assessed on him, and shall leave no personal estate whereon distress may be made; and when the owner of any buildings and improved lands liable to pay taxes, shall not reside in, or be inhabitant of the town or place in which such houses or lands lie, and no stock, corn or hay, or other personal estate can be found on such lands whereon to make distress for satisfying the taxes assessed thereon, and when any person assessed in any list of taxes, shall before payment happen to die, leaving no personal estate that can be come at, whereon to make distress, and no person interested in the same estate appearing to discharge the taxes, or when any inhabitant or resident shall conceal his goods and chattels, and his body cannot be taken; in each and every of the cases aforesaid, the said collector shall, and may at the expiration of three months from the time of his having received such list, proceed to advertise in such newspaper as the general court shall from time to time order, for six weeks successively, so much of the real estate or buildings so circumstanced as aforesaid, as will pay the taxes assessed as aforesaid, and all reasonable charges; and in such advertisement shall be expressed the proprietor or owner of such estate, or such a particular description of the estate in case the owner be not known, as the law requires in the case of the unimproved lands of non-resident proprietors; and in such advertisement shall be mentioned the day, hour and place of such intended sale, the hour shall be sometime between ten in the forenoon, and five in the afternoon; and the place some publick one in the town, or place where the estate taxed lies; and a like advertisement shall be posted up in the town or place where the estate to be sold lies; and also an advertisement of the like tenor, in three towns or places adjoining,* by the like space of time before the time of such sale; and in case the taxes and charges of adver-

When real estate liable to be sold for taxes.

Mode of sale.

tising be not paid before the hour for sale, the collector may proceed to sell so much of the estate of the delinquent as will pay the taxes and all necessary charges ; and shall execute a good and valid conveyance of the estate so sold, to the purchaser, in the same manner, and the same time for redemption shall be allowed, as the law allows and provides in the case of the sale of the unimproved lands of non-resident proprietors for non-payment of taxes.

Mode of collecting taxes on the estates of non-residents.

SECT. 5. *And be it further enacted*, That the mode of collecting taxes assessed on the unimproved buildings, and unimproved lands of non-resident proprietors, shall be as follows :

See act of Dec. 10, 1796, for taxing the lands, &c. of non-residents.

The collector upon receiving the list of such taxes, shall forthwith forward to the person appointed by the state to receive the same, an attested copy of the list of taxes laid on the unimproved lands and buildings of non-residents within his town or place ; and the said person whose duty it is, or shall be to receive the same, shall immediately advertise three weeks successively in the *New-Hampshire Gazette*, and also one of the Boston newspapers, thereby informing all persons concerned, that he has received said lists, and requiring all such owners and proprietors to pay their taxes to him, or to the collector of the town or place wherein the lands lie, within eight weeks, notifying also that in default thereof, so much of the lands of each delinquent proprietor or owner, will, at the end of the said eight weeks be advertised for sale, as will pay said taxes and all legal charges ; and the said person so advertising, is hereby authorized to receive the same, and the sum of five per cent. for his trouble, for all sums by him so collected, and at the end of said eight weeks, he shall as soon as may be return a copy of said list to the collector from whom he received it, retaining in his hands the aforesaid attested copies, specifying in said copy to be returned, who have paid their taxes, and who are delinquent ; and at the same time forward to the collector the money he hath collected, belonging to the said town or place, for the county taxes, and the residue thereof pay to the treasurer of this state, for the use thereof, taking the said treasurer's receipt therefor, in behalf of said town or place ; after which the said collector shall advertise so much of the delinquent proprietor's or owner's land for sale, as will pay said taxes with necessary incidental charges, giving at least three weeks notice of the time and place of such sale, by publishing the same in the *New-Hampshire Gazette*, and also by posting up a like advertisement for the term aforesaid, in some publick place in the town or place wherein the lands advertised for sale lie, and in the two adjacent towns.

And in case the said delinquent proprietor or owner shall neglect to pay the aforementioned taxes laid on his or their land, with the necessary incidental charges to the said

collector before the sale, then the said collector shall, on the day appointed proceed to make sale at publick auction, of so much of the delinquent's land, as will pay said taxes with the necessary incidental charges; provided the sale be made between the hours of ten of the clock in the forenoon, and six of the clock in the afternoon. And in case all the sales cannot be completed within the hours mentioned on said day, the said collector may adjourn the sale (publickly proclaiming the same) from day to day, not exceeding three days. And the said collector is hereby authorized to execute a valid conveyance of the land so sold, to the purchaser.

SECT. 6. *Provided, nevertheless, and be it further enacted,* That each non-resident aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his land or buildings, sold as aforesaid, at any time within the term of one year from the sale thereof, as aforesaid, paying or tendering to the purchaser a sum amounting to the real value for which the lands or buildings were sold, with the interest therefor, until the time of payment or tender as aforesaid, together with the cost of the deed or deeds, and recording, if any such be given and recorded. The mode for redeeming such lands and buildings shall be the same as the law prescribes for the redemption of lands mortgaged.

And whereas it often happens that more than one person, is interested in a right or proprietor's share of land, or some one lot, part of such share held in common and undivided, and one or more being owner or owners of such land, shall pay his or their proportion of taxes, according to their interest; and some other owner or owners in the same land being delinquent in paying their proportion of such taxes, shall occasion some part of such lands to be sold for the unpaid taxes:—Therefore,

SECT. 7. *Be it enacted,* That the lands sold in such cases, shall be only the undivided right of the delinquent owner or owners.

SECT. 8. *And be it further enacted,* That the form of the collector's deed shall be as follows, viz.

KNOW ALL MEN BY THESE PRESENTS, That I.....in the county of.....in the state of New-Hampshire, collector of taxes of, and for the.....in said county, for the year.....by virtue of sundry acts and laws of this state, relating to levying and collecting taxes of non-resident proprietors of land in the several towns and places in this state, for and in consideration of.....to me in hand paid before the delivery hereof by.....have given, granted and sold, and by these presents do give, grant, sell and convey unto him the said.....his heirs and assigns forever.....he the said.....being the highest bidder for the same at publick vendue duly notified and held at.....at

Redemption

Collector's deed.

See act of 10 Dec. 1796, Sect. 8.

the dwelling-house.....aforesaid, for the sale of lands in said.....belonging to such non-resident proprietors or owners as are delinquent in paying the said taxes assessed thereon.

To have and to hold the said granted premises, with the appurtenances thereof, to him the said.....his heirs and assigns in fee simple forever. And I.....the collector as aforesaid, do in my capacity agree to and with the saidhis heirs and assigns, to warrant and defend the said premises to him the said.....his heirs and assigns against the lawful claims and demands of any person or persons whomsoever, saving and reserving only to the owner or proprietor, their heirs or assigns, their right of redemption according to law, any thing in this deed to the contrary notwithstanding.

In witness whereof, I do hereunto set my hand and seal the.....day of.....Anno Domini,

Signed, sealed and delivered
in presence of

Passed February 11, 1791.

Passed Feb.9, *AN ACT directing the proceedings against Deficient*
1791. *Collectors.*

[Sept. 15,
1792.]

Deficient col-
lectors liable.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any collector of taxes shall not pay to the state treasurer, county treasurer, town treasurer, selectmen, or any other person or persons all such sums of money as shall be committed unto him or them to collect, by the time prefixed in the warrant or warrants to such collector given, which time shall never be sooner than three months from the time of the delivery of such warrant, with a list of taxes, then, and in every such case the state treasurer, county treasurer, town treasurer, selectmen or other person or persons to whom any such sum is ordered to be paid, his or their successor or successors in office, be, and hereby are empowered by warrant or execution under his or their hands and seals directed to the sheriff or his deputy of the county where the same is to be executed, returnable by a certain day therein to be mentioned, which shall in no case be less than sixty days, to cause all such sums of money to be levied by distress and sale of the real or personal estate of such deficient collector, returning the overplus, if any there be, and for want of any such estate to imprison such deficient collector until the same be paid.

SECT. 2. *And be it further enacted,* That the treasurer, or other person issuing any such warrant or execution, on return of the same unsatisfied, or satisfied in part only, may issue an alias for such sum as may remain due on the return of any former one, and so on as often as occasion shall require.

And in case such warrant or execution be issued either by the state or county treasurer, and the sheriff can find no estate real or personal, or not sufficient whereon to levy and satisfy the same, and the body of such deficient collector cannot be found within his precinct, or in case the body shall be committed, and the money be not paid within three months from the time of commitment, in either of the cases aforesaid, the treasurer issuing such warrant or execution, on being certified by the sheriff that no sufficient estate can be found, whereon to levy, and that the body cannot be found, or that the body hath been imprisoned three months, and the money hath not been paid as aforesaid, shall notify the selectmen of the town or place on whom the said tax was assessed thereof, who are hereby authorized and empowered immediately to assess the inhabitants of such town or place the sum so due, and collect the same as other taxes and assessments are collected, and pay the same to the treasurer to whom the same is due; and in case the sum for which such warrant or execution issued be not paid within six months from the time of such notice being given as aforesaid, then the said treasurer shall, and may issue his warrant or execution in manner aforesaid, against the inhabitants of such town or place for all such sums as are due and unpaid upon the former warrant or execution, and may add thereto the legal fees for the former warrant or execution and the service, travel and poundage thereon.

SECT. 3. *And be it further enacted,* That when any execution or warrant of distress issued by the state treasurer, county treasurer, town treasurer, selectmen or other persons having lawful authority to issue the same shall be levied on the lands, tenements or hereditaments of any deficient collector, the officer levying the same shall proceed and sell so much thereof at publick auction to the highest bidder, as shall be sufficient to satisfy his said execution or warrant, with all legal costs, giving thirty days notice of the time and place of sale, by posting up advertisements therefor, at some publick place in the town or place where such estate lies, and in two of the adjoining towns, and in such case the sheriff shall specify in his advertisement the amount of the sum to be satisfied by such sale, and the species, whether money, certificates, state notes or other thing in which the same may be paid; and in all cases the sheriff shall receive in payment of the sum mentioned in any such execution or warrant of distress, the same as the treasurer will receive of him, as described in such execution or warrant of distress.

SECT. 4. *And be it further enacted,* That in all cases when the time shall be elapsed at which any collector shall be ordered to pay his tax to the state, or county treasurer, and the selectmen shall be of opinion that such collector hath collected the several sums mentioned in his list of the per-

Inhabitants liable if the collector be unable.

Real estate of collectors taken in execution to be sold at auction.

Selectmen may issue extents against collectors for state and county tax where there is danger of their absconding.

sons in such lists named, and that there is danger of such collector's absconding, or being unable to pay when called upon by the treasurer, to whom the same is payable ; in every such case the selectmen may issue their execution or warrant of distress against such collector for all such sums as he may be in arrear to the state or county treasurer, or both, in the same manner as they may for any town tax ; and the proceedings in such case shall be the same in all respects.

Provided always, That the said selectmen shall in such case indemnify such collector for all damages that he may sustain, by reason of any extents that may issue against him by the state or county treasurer for the same tax ; and the state or county treasurer upon being notified by the selectmen of their having issued such execution as aforesaid, shall not issue any execution against such deficient collector, but shall in case of non-payment for the space of three months after such notice, issue his execution or warrant of distress against such selectmen, and in their default of payment, against the inhabitants in the same manner as he is authorized to do in the case of collectors being unable to pay.

Treasurers to issue extents against collectors.

SECT. 5. *And be it further enacted,* That in all cases where the name of any collector, the date of the warrant given him, the sum he is ordered to pay, and the time when he is to pay the same shall be returned to any treasurer, before he issue any extent for the same tax ; it shall be the duty of the treasurer to issue his extents for such delinquent tax against such collector or collectors, and against no other person or persons, except in cases as before mentioned, where such collectors are unable, or in cases where such treasurer hath received notice as aforesaid, that the selectmen have already issued execution or warrant of distress therefor ; and in all cases where the name or names of any collectors shall not be returned to the treasurer, it shall be his duty in the first instance to issue his execution or warrant of distress for the unpaid tax of such town or place against the selectmen of that year, and against no other persons ; and in case such selectmen be unable, or in case return be made by any sheriff, on any execution issued by any state or county treasurer, that no selectmen were chosen in such town or place that year, then such execution shall issue against the inhabitants of such town or place.

Remedy against deficient collectors by action.

SECT. 6. *And be it further enacted,* That in all cases where execution or warrant of distress issues against any selectmen, or against any town or place, in consequence of any default or neglect of any collector to pay his taxes according to the directions, such selectmen, or such town or place in every such case shall have their remedy against such deficient collector by action, and shall recover against him all

such sums as they may have paid, or have been compelled to pay on his account, with damages for the extraordinary trouble they may have been at in paying the same.

And in all cases where any town or place may be compelled to pay any sums, or be put to any trouble or charges by reason of the neglect or misconduct of any selectmen, they shall have their remedy against such selectmen.

Passed February 9, 1791.

RESOLVED, that the treasurer be directed to report to the house of representatives at the next session of the general court immediately succeeding the time when the tax voted this session shall become payable, a particular statement of the deficiencies in payment of said tax, if any; and likewise the extents that have been issued; and that it shall be considered as the duty of the treasurer to make similar reports on all future grants of taxes.

Approved January 14, 1795.

AN ACT to declare the use of Fines and Forfeitures within this State. Passed June 17, 1796.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That all fines and forfeitures arising or becoming due upon judgment of any state court within this state, upon any conviction, forfeitures of recognizances, or otherwise shall be deemed and taken to belong to, and be appropriated for the use of the county where the offence shall be committed and tried, or forfeitures, estreated, and that all fines and forfeitures having been received and not paid over by any state court, justice of the peace, or other civil officer within this state, shall by them be paid over to the county treasurer for the use of the county as before directed.

SECT. 2. *And be it further enacted,* That when it so happens that any recognizance may be forfeited in any such court, taken on complaint or otherwise, where any sum or sums, might by conviction of the principal, become due to any complainant or other person interested in the prosecution of the principal, that it shall be in the power of such courts respectively to ascertain the just sum and costs that might be due to such complainant or person so interested, and make order that such part of the forfeiture be paid him or them as will satisfy the same.

Court to ascertain, &c

Provided always, That this act shall not alter the appropriation of any fines or forfeitures made or declared in and by any act or law of this state, where the same is expressly given to this state, or to any town within the same, or to any particular use prescribed in said act, any law, custom or usage to the contrary thereof notwithstanding.

Approved June 17, 1796.

Passed Sept. 1, 1781. *AN ACT for making gold and silver a tender for all debts, and for settling the depreciation of the paper currency; and for the future regulation of the Courts of Justice in this State.*

WHEREAS paper bills have been a lawful tender for all debts, the value of which is by their depreciation become uncertain, and it is necessary that a more permanent and fixed medium should be established as a tender :

Be it therefore enacted by the council and house of representatives, in general assembly convened, and by the authority of the same it is hereby enacted, That all contracts which shall hereafter be made for lawful money, shall be considered as made for Spanish milled dollars, at the rate of six shillings per dollar, or other silver and gold in proportion. And all debts due before the last day of January, 1777, shall be considered as of the same value, and paid accordingly; and a tender of gold or silver for such debt at the rate aforesaid, shall be judged legal. And all contracts for paper money, from the last day of January 1777, to the last day of June 1781, shall be computed and paid according to the following table or scale; which scale is considered as calculated for the last day of each month, and the daily depreciation to be computed in the same proportion.

Scale of depreciation.

Continental paper in 1777.		Continental paper in 1778.		Continental paper in 1779.		Continental paper in 1780.		Continental paper in 1781.		
£.	silver.	£.	silver.	£.	silver.	£.	silver.	£.	silver.	
January,	equal	325	100	742	100	2934	100	7500	100	
February,	104	100	350	ditto	868	ditto	3322	ditto	7500	ditto
March,	106	ditto	375	ditto	1000	ditto	3736	ditto	7500	ditto
April,	110	ditto	400	ditto	1104	ditto	4000	ditto	7500	ditto
May,	114	ditto	400	ditto	1215	ditto	4800	ditto	7500	ditto
June,	120	ditto	400	ditto	1342	ditto	5700	ditto	12000	ditto
July,	125	ditto	425	ditto	1477	ditto	6000	ditto		
August,	150	ditto	450	ditto	1630	ditto	6300	ditto		
September,	175	ditto	475	ditto	1800	ditto	6500	ditto		
October,	275	ditto	500	ditto	2030	ditto	6700	ditto		
November,	300	ditto	545	ditto	2308	ditto	7000	ditto		
December,	310	ditto	634	ditto	2393	ditto	7300	ditto		

*Passed September 1, 1781.**

* The two last sections of this act were repealed by act of 20th June, 1792, which took effect 15th September, 1792.

Passed Feb. 20, 1794. *AN ACT to establish the method of computation of money in accounts and other transactions.*

WHEREAS it is of importance to society, and will facilitate commerce, that the money of account be rendered as simple as its nature will admit; and whereas the method of notation used by the United States, is easy of comprehension, and will readily apply to the monies current in the commercial world, and as in case of its adoption, the actual

monies, and the money of account will be of the same denomination, its establishment cannot be attended, on its introduction, with injury or inconvenience to the citizens of the state:

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the legal money of account of the state of New-Hampshire, from and after the first day of January, one thousand seven hundred and ninety-five, shall be in dollars and decimals of a dollar: that is to say, dollars, dimes and cents, or dollars and cents; the dollar to be of the value of the federal dollar, so called, or dollar of the United States, and equal to six shillings of the present lawful money—the dime, of the value of one tenth part of a dollar, and the cent of the value of one hundredth part of a dollar.

Money of account to be in dollars, &c.

SECT. 2. *And be it further enacted,* That from and after the said first day of January, the judgments of all state courts, accounts in all publick state offices, and assessments in all state taxes, shall be in dollars and cents, or dollars, dimes and cents, reckoned and valued as aforesaid.

Approved February 20, 1794.

AN ACT to restrain unincorporated Banking Associations. Passed Dec. 27, 1799.

WHEREAS the association of persons for the purpose of forming a bank or fund for the receiving deposits, issuing notes or bank bills, making discounts, and transacting the banking business, may and often does prove highly injurious to the publick;—and whereas in every state it belongs to the supreme power thereof, to erect and establish such banks as they may judge necessary and useful, and to prescribe rules for the government of the same, as also to prohibit and restrain all persons, not authorized thereto by law, from carrying on the banking business: Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That every company or association of persons formed, or to be formed, for the purpose of establishing a bank or fund for receiving deposits, issuing notes or bank bills, making discounts, or loaning money, or bank bills, and transacting the business which incorporated banks may or do transact by virtue of an act or acts of incorporation, and every such institution, propriety or bank formed, or to be formed, without an act of the legislature authorizing the same, shall be deemed, and the same is hereby declared unlawful. And if any person not authorized as aforesaid, shall subscribe to, or become a proprietor, partner or stockholder in such fund or bank, or become a member of such institution, company or association, he shall forfeit and pay for every such offence, a

Banking unless authorized unlawful

sum not exceeding *one thousand dollars*, nor less than *four hundred dollars*, to be recovered by any person who will sue for the same, in an action of debt, one half thereof to his own use, and the other to the use of the state.

Forfeiture.

SECT. 2. *And be it further enacted*, That if any person shall be concerned or interested in behalf of any such unincorporated company, association or bank institution, in the issuing of any notes, or bank bills, receiving any deposits, discounting any notes, loaning any money, or bank notes or bills, or signing any such notes or bills as president or cashier, or in any other way aiding or assisting in carrying on the business of such unincorporated bank, such person shall for every such offence, forfeit and pay the sum of *one hundred dollars*, to be recovered and disposed of in manner aforesaid.

Notes, &c.
null and void.

SECT. 3. *And be it further enacted*, That all notes or securities for the payment of money, or delivery of property which shall be made, given, endorsed, or transferred to any such unincorporated bank, company, or association, as before described, or which shall be received by any such unincorporated bank, company, or association, in payment of money, bank notes, or bills loaned, or discounts made by them, or which shall be made, given, or transferred to, or received by any person or persons for their benefit and use, shall be null and void.

Holders of
notes shall
recover, &c.

SECT. 4. *And be it further enacted*, That every person who shall hold any bank note or bill issued or paid out by any such unincorporated association, bank, or company, their agents, officers or servants, shall be entitled to demand and recover the full sum expressed in such bank note or bill, of such company, association, or bank, the president, cashier or any member or stockholder thereof at his election.

Not to affect
any bank al-
ready formed,
until,

SECT. 5. *And be it further enacted*, That this act shall not be construed to affect any such company, propriety, association, or bank already formed, or any person or persons who shall become member or members thereof until the first day of August next.

Approved December 27, 1799.

Passed June
14, 1805.

AN ACT to prevent the circulation of Private Notes, Bills, Orders and Checks.

Circulation
of private
notes, bills,
&c. prohibit-
ed.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any person shall after the first day of August next, issue or pass any note, bill, order, or check other than a note, bill, order or check of any bank incorporated by the laws of this state, or of some one of the United States, with an

intent that the same shall be circulated as currency, he shall forfeit and pay for every such offence the sum of twenty dollars, to be recovered by indictment in the superior court of judicature to the use of the state, or by action of debt, to the use of any person who shall first sue therefor, in any court of competent jurisdiction. 20 dollars fine.

SECT. 2. *And be it further enacted*, That all bills, notes, checks, draughts, or obligations whatsoever payable to bearer or order, which shall be made, issued, or passed, after the said first day of August next, with an intent that the same shall be circulated as currency, and which shall bear the impression of types, plates, or printing shall be utterly void, and no action shall be thereon sustained in any court of law except against the original signer of the same. No action sustained on any bills, &c. except.

Provided, nevertheless, That nothing herein contained shall affect the rights or privileges heretofore granted, or which may hereafter be granted to any bank or banks incorporated within this state, or be construed to extend to persons receiving or passing any bill issued by such banks.

Approved June 14, 1805.

AN ACT to prevent the issuing and passing Bank Notes or Bank Bills of certain descriptions therein mentioned. Passed June 11, 1803.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the first day of September next, it shall be unlawful for any banking company within this state, by themselves, their directors, or agents, to issue any bank note or bank bill promising payment subject to any condition whatever, or payable at any other place than at the place from which it issued; and that if any such banking company, or any person or persons in their behalf, shall be concerned in issuing any such bank notes, or bank bills, he or they shall, for every such offence, forfeit and pay the sum of five hundred dollars, to be recovered by any person who shall sue for the same, by action of debt, in any court having competent jurisdiction, one half thereof to his own use, and the other half to the use of the state. Unlawful to issue conditional bank notes.
Forfeiture

Approved June 11, 1803.

AN ACT to prevent the issuing from Banks as a currency, certain description of Bank Bills, Notes and Obligations therein mentioned. Passed June 17, 1807.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the first day of July next, it shall be unlawful for any banking company in this state, by themselves, their directors or Banks not to issue bills, &c. of certain descriptions:

agents, to issue, with intent to put in circulation as a currency, any bank bill, note or obligation, the payment of which shall be subject to any condition whatever, or payable at any other place than the bank from which it issued, or which shall not be made payable to the bearer, or which shall not be payable on demand in specie.

Penalty.
How to be
recovered.

And if any such banking company, or any person or persons in their behalf, shall be concerned in issuing any such notes, bills, or obligations, he or they shall for every such offence, forfeit and pay the sum of one hundred dollars to be recovered by any person who shall sue for the same, by action of debt in any court, having competent jurisdiction, the one half thereof to his own use, and the other half to the use of the state.

Bank
neglecting or
refusing to
pay such bill,
&c. in specie.

SECT. 2. *And be it further enacted*, That from and after the first day of July next, if any banking company in this state, shall neglect or refuse to pay in specie any such bank bill, note, or obligation by them issued, subsequent to said first day of July, upon the same being presented to the bank, and such payment requested, the holder of such bank bill, note or obligation, may bring his action upon the same, and recover against such bank, the amount of such bill, note or obligation in any court, having competent jurisdiction together with treble costs of suit.

Penalty for
passing the
same.

SECT. 3. *And be it further enacted*, That from and after the first day of January next, if any person or persons shall knowingly pass any bank bill, note or obligation of the description in this act, excepting to the bank from which the same issued, and which shall have issued subsequent to the said first day of July next, by any bank in this or any other state, he or they shall forfeit and pay the sum of five dollars, to be recovered in manner aforesaid.

Approved June 17, 1807.

Passed June
21, 1814.

AN ACT directing the return of statements every year from the several incorporated Banks in this State, to His Excellency the Governor and the Council.

Directors to
make returns
of the state of
their banks
annually.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, the directors of the several banks incorporated within this state, shall, on or before the Monday next following the first Wednesday in June, in every year, make a return of the state of their several banks, as it existed on the first Mondays in November and May next preceding the said first Wednesday in June, to his excellency the governor and the council; which return shall specify the amount of the capital stock actually paid in, the value of real estate belonging to the incorporation, amount of debts due, whether on interest or not, amount of specie in

the vaults, amount of bills of other banks on hand, amount of deposits, and the amount of bills in circulation which have issued from said bank ; and the return from each bank shall be signed by a majority of the directors and the cashier thereof : and the cashier shall make oath before some magistrate, authorized by the laws of this state to administer oaths, that the return so signed by him, to the best of his knowledge, is a just and true statement of the situation of said bank, according to the provisions of this act. And the magistrate, before whom such oath is taken, shall certify the same on the said return, before it be returned to the governor and the council.

SECT. 2. *And be it further enacted,* That it shall be the duty of the governor for the time being, on the Wednesday following the said Monday on which said returns must be made, to lay before the legislature of this state, in each year, a true copy of the returns so made to him by the several banks in this state, for the then preceding year ; and in case the legislature shall not then be in session, then on the first day of their next session.

Returns to be laid before the legislature.

SECT. 3. *And be it further enacted,* That if any incorporated banking company in this state shall neglect or refuse to make return to the governor and council, as is required by this act, such banking company, so offending, shall forfeit and pay a fine of one thousand dollars to this state, to be recovered by an action of debt, or bill of indictment in the supreme judicial court of this state in the county in which such delinquent bank is situated ; and it shall be the duty of the governor for the time being, sometime in the month of July, in each year, to give information in writing of all such banking companies as shall not have made returns agreeably to the provisions of this act, to the attorney general, whose duty it shall be to prosecute all such delinquent banking companies, in behalf of the state, in the manner prescribed by this act, to final judgment and execution ; which execution may be levied on the property of such bank, in the same way and manner as any other execution may be levied on such bank.

Bank neglecting to make return—

to forfeit 1000 dollars,

Information to be given to the attorney general—his duty.

SECT. 4. *And be it further enacted,* That the information so furnished by the governor to the attorney general, shall be considered as admissible evidence on the trial of any banking company for a breach of this act.

Such information to be admissible evidence

SECT. 5. *And be it further enacted,* That it shall be the duty of the governor, if required, when a return is made to him, as is required by this act, by any banking company, its officer, or agent, to give the person making the return a certificate, or receipt, shewing that such return is so received by him, and the time when it was received ; which certificate, or receipt, shall be good evidence in any court that such return was so made.

SECT. 6. *And be it further enacted*, That the secretary of the state shall furnish each of the several banking companies in this state with an attested copy of this act, within three months from the time of its enactment.

Approved June 21, 1814.

Passed Feb.
12, 1791.
[Sept. 15,
1792.]

AN ACT to restrain the taking of Unlawful Interest.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That no person or persons, upon any contract which shall be made, shall take either directly or indirectly, for the loan of any money, wares, merchandize, or any other personal estate whatever, above the value of six pounds for the use and forbearance of one hundred pounds for a year, and after that rate for a greater or less sum, or for a longer or shorter time:

Lawful interest.

Penalty for taking illegal interest.

And all and every person and persons who shall hereafter upon any contract take, accept and receive by way or means of any corrupt bargain, loan, exchange, or by covin, or deceitful conveyance, or by any other way or means, for the forbearing or giving day of payment for one whole year of, and for their money, or other personal estate above the sum of six pounds for the forbearance of one hundred pounds for a year, and so after that rate for a greater or less sum, or for a longer or shorter time, shall forfeit and lose for every such offence, three times the sum above the lawful interest so taken: one moiety to the use of the prosecutor, and the other moiety to the use of the county in which the offence is committed, with costs of prosecution.

Manner of proof.

SECT. 2. *And be it further enacted*, That when any person or persons shall be sued on any bond, contract, mortgage or any assurance given, or made hereafter for the payment of any money, goods or personal estate, whereon or whereby any sum is given, secured or taken for the forbearing or giving day of payment, more than the lawful interest, that is, more than at the rate before mentioned, then if the debtor or debtors (the creditor being alive) shall come into court where the cause is to be tried, and shall offer to make oath, and if required by the court, actually swear that there is taken, received or secured by such bond, contract, mortgage, or assurance above the rate of six pounds in the hundred for the forbearance of the same, whether it be for money or other things for one year, and so after that rate, for any greater or less sum, or for a longer or shorter time, or that the creditor or creditors have received more than after the rate of six pounds in the hundred for the forbearance, or loan of any sum of money or other personal estate, or thing sued for per annum, in rendering judgment upon such bond, contract, mortgage or assurance, the court shall deduct from the sum lawfully due, by or upon such contract

or other assurance as aforesaid, a sum equal to three times the sum above the lawful interest taken, secured, given or received on or by such contract, or other assurance; unless the creditor or creditors will swear that he, she or they have not directly or indirectly, willingly taken or received more than after the rate of six per cent. per annum for forbearance, or giving day of payment, and that by such bond, contract, mortgage or assurance, there is not reserved, secured or taken more than after the rate of six per cent. per annum for forbearance or giving day of payment for the money, goods or things sued for or demanded.

Provided, always, That nothing in this act shall extend to the letting of cattle, or other usages of the like nature, in practice among farmers, or to maritime contracts among merchants as bottomry, insurance, or course of exchange, as hath been heretofore used.

Passed February 12, 1791.

AN ACT for arranging, forming, and regulating the Militia within this state, and for repealing all laws heretofore made for that purpose. Passed Dec. 22, 1808.

WHEREAS the laws for arranging, forming, and regulating the militia of this state have become too complicated for practical use, by reason of the several alterations which have from time to time been made therein; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the several laws heretofore made for arranging, forming and regulating the militia, be, and are hereby, repealed—*Provided, nevertheless,* That all officers actually in commission, agreeably to the laws which are hereby repealed, shall continue in commission in the same manner and in the same authority they would in case the said laws were still in force; and all proceedings done and transacted by virtue of said laws shall be good and valid in the same manner as if said laws were not repealed. Former laws repealed. Proviso.

SECT. 2. *And be it further enacted,*

1. That the companies in the town of Portsmouth be divided into battalions as they now are, and constitute the first regiment. 1st Regiment.

2. That the companies in the towns of Dover and Somersworth shall form a first battalion; and the companies in the towns of Rochester, Farmington and Milton shall form a second battalion; which shall constitute the second regiment. 2d Regiment.

3. That the companies in the towns of North-Hampton, Hampton and Hampton-Falls shall form a first battalion; and the companies in the towns of Seabrook, Kensington and South-Hampton shall form a second battalion; which shall constitute the third regiment. 3d Regiment.

4th Regiment.

4. That the companies in the towns of Exeter and New-Market shall form a first battalion; and the companies in the towns of Brentwood, Poplin and Epping shall form a second battalion; which shall constitute the fourth regiment.

5th Regiment.

5. That the companies in the towns of Amherst, Merri-mac, Litchfield, Mount-Vernon and Milford shall form a first battalion; and the companies in the towns of Dunstable, Hollis, Nottingham-West and Brookline shall form a second battalion; which shall constitute the fifth regiment.

6th Regiment.

6. That the companies in the towns of Winchester, Richmond and Swanzey shall form a first battalion; and the companies in the towns of Chesterfield and Hinsdale shall form a second battalion; which shall constitute the sixth regiment.

7th Regiment.

7. That the companies in the towns of Kingston, East-Kingston, Hawke and Newtown shall form a first battalion; and the companies in the towns of Atkinson, Plaistow, Hampstead and Sandown shall form a second battalion; which shall constitute the seventh regiment.

8th Regiment.

8. That the companies in the town of Londonderry shall form a first battalion; and the companies in the towns of Salem, Pelham and Windham shall form a second battalion; which shall constitute the eighth regiment.

9th Regiment.

9. That the companies in the towns of Derryfield, Goffstown, Dunbarton and Bedford shall form a first battalion; and the companies in the towns of New-Boston and Weare shall form a second battalion; which shall constitute the ninth regiment.

10th Regiment.

10. That the companies in the town of Gilmanton, except the first company, shall form a first battalion; and the first company in Gilmanton and the companies in Barnstead shall form a second battalion; which shall constitute the tenth regiment.

11th Regiment.

11. That the companies in the towns of Concord, Pembroke and Bow shall form a first battalion; and the companies in the towns of Loudon, Canterbury and Northfield shall form a second battalion; which shall constitute the eleventh regiment.

12th Regiment.

12. That the companies in the towns of Rindge, Jaffrey and Fitzwilliam shall form a first battalion; and the companies in the towns of Dublin, Marlborough and Packersfield shall form a second battalion; which shall constitute the twelfth regiment.

13th Regiment.

13. That the companies in the towns of Haverhill, Piermont and Orford shall form a first battalion; and the companies in the towns of Wentworth, Warren and Coventry shall form a second battalion; which shall constitute the thirteenth regiment.

14th Regiment.

14. That the companies in the towns of Plymouth, New-Holderness and Rumney shall form a first battalion; and the

companies in the towns of Campton, Thornton, Ellsworth and Peeling, the inhabitants of Lincoln on the east side of the mountain and the inhabitants of the Gore (so called) being annexed to Peeling for military duty, shall form a second battalion; which shall constitute the fourteenth regiment.

15. That the companies in the town of Plainfield and the north company and the light infantry company in the town of Cornish, and the west company in the town of New-Gran-^{15th Regiment.}tham, shall form a first battalion; and the other company in Cornish and the companies in Claremont, shall form a second battalion; which shall constitute the fifteenth regiment.

16. That the companies in the towns of Charlestown and Langdon, shall form a first battalion; and the companies in the towns of Acworth and Unity, shall form a second bat-^{16th Regiment.}talion; which shall constitute the sixteenth regiment.

17. That the companies in the town of Chester shall form a first battalion; and the companies in the towns of^{17th Regiment.} Candia, Raymond and Allenstown, shall form a second battalion; which shall constitute the seventeenth regiment.

18. That the companies in the towns of Nottingham and Deerfield, shall form a first battalion; and the companies in the towns of Epsom, Northwood, Pittsfield and Chichester, shall form a second battalion; which shall constitute the^{18th Regiment.} eighteenth regiment.

19. That the companies in the towns of Moultonborough, Center Harbor and the first company in Sandwich, shall^{19th Regiment.} form a first battalion; and the companies in Tamworth and the second company in Sandwich, shall form a second battalion; which shall constitute the nineteenth regiment.

20. That the companies in the towns of Walpole and Westmoreland, shall form a first battalion; and the compa-^{20th Regiment}nies in the towns of Keene, Surry, Gilsum and Sullivan, shall form a second battalion; which shall constitute the twentieth regiment.

21. That the companies in the towns of Boscawen and Hopkinton, shall form a first battalion; and the companies in the towns of Salisbury and Andover, shall form a second^{21st. Regiment.} battalion; which shall constitute the twenty-first regiment.

22. That the companies in the towns of New-Ipswich, Sharon and Mason, shall form a first battalion; and the com-^{22d Regiment.}panies in the towns of Peterborough, Temple, Lyndeborough and Wilton, shall form a second battalion; which shall constitute the twenty-second regiment.

23. That the companies in the town of Lebanon and the south company in Hanover, shall form a first battalion; and the companies in the town of Lyme and the north company in Hanover, shall form a second battalion; which shall con-^{23d Regiment.}stitute the twenty-third regiment.

24th Regiment.

24. That the companies in the towns of Lancaster, Jefferson, Dalton, Northumberland, Whitefield, Bretton Woods, Kilkenny, Durand and Nash and Sawyer's Location shall form a first battalion; and the companies in the towns of Piercy, Stratford, Wales' Gore, Cockburne, Colebrook, Stewartstown and Errol, shall form a second battalion; which shall constitute the twenty-fourth regiment.

25th Regiment.

25. That the companies in the towns of Durham, Lee and Madbury, shall form a first battalion; and the companies in the town of Barrington shall form a second battalion; which shall constitute the twenty-fifth regiment.

26th Regiment.

26. That the companies in the towns of Antrim, Deering, Henniker, Hillsborough and Windsor, shall form a first battalion; and the companies in the towns of Hancock, Franchestown, Greenfield and Society, shall form a second battalion; which shall constitute the twenty-sixth regiment.

27th Regiment.

27. That the companies in the towns of Wolfeborough and Tuftonborough, shall form a first battalion; and the companies in the towns of Ossipee, Eppingham, Ossipee Gore and the north company in Wakefield, shall form a second battalion; which shall constitute the twenty-seventh regiment.

28th Regiment.

28. That the companies in the towns of Alstead, Marlow and Lempster, shall form a first battalion; and the companies in the towns of Stoddard and Washington, shall form a second battalion; which shall constitute the twenty-eighth regiment.

29th Regiment.

29. That the companies in the town of Sandbornton shall form a first battalion; and the companies in the towns of Meredith and New-Hampton, shall form a second battalion; which shall constitute the twenty-ninth regiment.

30th Regiment.

30. That the companies in the towns of Warner, Bradford, and Kearsarge Gore, shall form a first battalion; and the companies in the towns of New-London, Fishersfield, Wilmot, and Sutton, shall form a second battalion; which shall constitute the thirtieth regiment.

31st Regiment.

31. That the companies in the towns of Newport, Wendell and Goshen, shall form a first battalion; and the companies in the towns of Croyden, Springfield, and the east company in New-Grantham, shall form a second battalion; which shall constitute the thirty-first regiment.

32d Regiment.

32. That the companies in the towns of Bath, Lyman and Landaff, shall form a first battalion; and the companies in the towns of Concord, (in the county of Grafton) Littleton, Bethlehem, that part of Lincoln on the west side of the mountain, and Franconia, shall form a second battalion; which shall constitute the thirty-second regiment.

33d Regiment.

33. That the companies in the towns of New-Durham and Alton, shall form a first battalion; and the companies in the towns of Middleton, Brookfield, and the southerly company in Wakefield, shall form a second Battalion; which shall constitute the thirty-third regiment.

34. That the companies in the towns of New-Chester and Bridgewater, shall form a first battalion; and the companies in the towns of Alexandria, Groton, Hebron, and Danbury, shall form a second battalion; which shall constitute the thirty-fourth regiment. 34th Regiment

35. That the companies in the towns of New-Castle, Rye, and Greenland, shall form a first battalion; and the companies in the towns of Newington and Stratham, shall form a second battalion; which shall constitute the thirty-fifth regiment. 35th Regiment

36. That the companies in the towns of Eaton and Burton, and the first company in Conway, shall form a first battalion; and the companies in the towns of Bartlett, Adams, Chatham, and the second company in Conway, shall form a second battalion; which shall constitute the thirty-sixth regiment. 36th Regiment

37. That the companies in the towns of Canaan, Dame's Gore, Dorchester, and Orange, shall form a first battalion; and the companies in the towns of Enfield and Grafton shall form a second battalion; which shall constitute the thirty-seventh regiment. 37th Regiment

SECT. 3. *And be it further enacted,*

1. That the first, third, fourth, seventh, and thirty-fifth regiments, shall compose the first brigade. First Brigade.

2. That the second, tenth, nineteenth, twenty-fifth, twenty-seventh, twenty-ninth, thirty-third, and thirty-sixth regiments, shall compose the second brigade. Second Brigade.

3. That the eighth, eleventh, seventeenth, and eighteenth regiments, shall compose the third brigade. Third Brigade.

4. That the fifth, ninth, twenty-first, twenty-second, twenty-sixth, and thirtieth regiments, shall compose the fourth brigade. Fourth Brigade.

5. That the sixth, twelfth, fifteenth, sixteenth, twentieth, twenty-eighth, and thirty-first regiments, shall compose the fifth brigade. Fifth Brigade.

6. That the thirteenth, fourteenth, twenty-third, twenty-fourth, thirty-second, thirty-fourth, and thirty-seventh regiments, shall compose the sixth brigade. Sixth Brigade.

And that the first and third brigades shall form the first division. First Division.

That the second and sixth brigades shall form the second division. Second Division.

That the fourth and fifth brigades shall form the third division. Third Division.

SECT. 4. *And be it further enacted,* That each and every free able-bodied white male citizen of this state, resident therein, who is or shall be of the age of sixteen years, and under the age of forty years, (except such as are hereinafter excused) shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company within whose bounds such citizen shall reside; Persons liable to do military duty.

and it shall at all times be the duty of such captain or commanding officer of the company, to enrol every such citizen as aforesaid ; and also those who shall, from time to time, arrive to the age of sixteen years, or being of the age of sixteen years and under the age of forty years, shall come to reside within his bounds, shall be enrolled as soon as may be after such citizen shall come to reside within the limits of such company. And any legal notice, or warning, to the citizens so enrolled, to attend a company, battalion or regimental muster, or training, shall be deemed a legal notice of his enrolment.

Notice of enrolment.

Exempts.

SECT. 5 *And be it further enacted*, That the Vice-President of the United States ; all the officers, judicial and executive, of the government of the United States ; the members of both houses of congress, and their respective officers ; all custom house officers, with their clerks ; all post-officers and stage-drivers, who are employed in the care and conveyance of the mail of the post-office of the United States, and of this State ; all ferrymen employed at any ferry on the post-road ; all inspectors of exports ; all pilots ; all mariners actually employed in the sea-service of any citizen or merchant within the United States ; secretary and deputy secretary of this state ; state and county treasurers ; recorders of deeds ; all civil officers actually in commission ; all officers and students of colleges ; ministers of the gospel ; people denominated Quakers, and Shakers ; preceptors of any academy ; all who have, under the commission of this state, or the United States, or any particular state, held the office of subaltern, or higher rank, for the term of four years ; all regular bred physicians and surgeons, who have received medical degrees, or who may produce certificates from the New-Hampshire Medical Society that they are such, and are in actual practice ; be, and are hereby excused from military duty.

Divisions.

SECT. 6. *And be it further enacted*, That each division within this state shall be commanded by one major-general, who shall have two aids-de-camp, with the rank of major ; each brigade, by one brigadier-general, who shall have one brigade-inspector, who is also to perform the duty of brigade-major ; to each regiment, one lieutenant-colonel commandant ; and to each battalion, one major ; who shall reside within their respective districts.

Brigades.

Regiments.

Grenadiers, or light infantry.

That out of the militia enrolled, there shall be formed, for each battalion, at least one company of grenadiers, or light infantry.

Regimental staff.

The regimental staff shall consist of one adjutant, one quarter-master, and one pay-master, to rank as lieutenants ; one surgeon, one surgeon's-mate, one serjeant-major, one quarter-master-serjeant, one drum-major, and one fife-major.

Company of infantry.

That each company of infantry shall consist of one captain, one lieutenant, one ensign, four serjeants, four corporals,

one drummer, one fifer, and sixty-four rank and file ; the corporals to be included in the rank and file.

That each non-commissioned officer and soldier belonging to the infantry, shall furnish himself with a good fire-lock, with a steel or iron ram-rod, priming-wire and brush, bayonet, scabbard and belt, a cartridge-box that will contain sixteen cartridges, two good flints, a knapsack, and canteen.

“That the commissioned officers shall be severally armed with a sword or hanger, and an esponton;”* and that all officers whose duty it is to be mounted on horse-back, shall be armed with a sword and pair of pistols.

That all companies of cavalry, artillery, light infantry, or grenadiers, that may hereafter be raised, shall consist of the following number: To each company of cavalry, one captain, two lieutenants, one cornet, four serjeants, four corporals, one trumpeter, one farrier, one saddler, and fifty privates ; the commissioned officers to furnish themselves with good horses, of at least fourteen hands and one half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bear-skin caps ; each dragoon to furnish himself with a serviceable horse, of at least fourteen hands and one half high, a good saddle, bridle, mail-pillion and valise, holsters, the caps of which to be covered with bear-skin, a pair of pistols, a hanger, and a cartridge-box to contain twelve cartridges for pistols, a pair of boots and spurs.

To each company of artillery, one captain, two lieutenants, four serjeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and sixteen privates ; the non-commissioned officers and privates to be armed with swords.

To each company of light infantry, or grenadiers, one captain, one lieutenant, one ensign, four serjeants, four corporals, one drummer, one fifer, and forty-eight privates ; and to be equipped in the same manner as the commissioned and non-commissioned officers and soldiers in the infantry.

SECT. 7. *And be it further enacted*, That each company of artillery now formed, or that may hereafter be formed, when organized, be furnished at the expense of this state, with one piece of ordnance, with carriage-harness and apparatus complete, twenty round shot suitable to the piece, and one standard: That to each piece of ordnance be annually allowed fourteen dollars, for the purpose of furnishing said piece with powder, and port-fire.

SECT. 8. *And be it further enacted*, That each company of artillery and cavalry, be formed of volunteers from the regiment in which they reside, at the discretion of the commander in chief, not exceeding one company of each to

* The paragraph marked by inverted commas, repealed by act of Nov 5, 1813.

a regiment, and to be under the command of the field officers of such regiment.

Cavalry to receive musick money. **SECT. 9.** *And be it further enacted,* That the captain of each company of cavalry now formed, (who has not received his musick money) and the captain of each company hereafter formed, shall be entitled to receive out of the treasury twenty-five dollars, for the purpose of furnishing such company with instruments of musick ; and the governor, it being certified by the commanding officer of the regiment, that a company of cavalry belonging to the same is organized agreeably to law, shall give the captain of such company an order on the treasurer for the aforesaid sum.

Infantry companies, &c. to receive musick money. That the captain of each company of infantry, artillery, light infantry or grenadiers, who has not received his musick money, shall be entitled to receive out of the treasury the sum of eight dollars, for the purpose of furnishing his company with instruments of musick, who is to observe the same rules and regulations in obtaining the same, as is pointed out for the cavalry.

Standards, &c. provided. **SECT. 10.** *And be it further enacted,* That there be provided, at the expense of this state, for each regiment, one standard, and for each battalion, one colour. And when any regimental standard, or battalion colours, or colours belonging to the cavalry or artillery, shall become useless, the adjutant-general, or quarter-master-general, shall furnish new ones for such regiment, battalion, or company, at the expense of the state, upon a certificate being produced from the brigadier-general, commanding the brigade, that such standards or colours are needed.

Annual inspection. **SECT. 11.** *And be it further enacted,* That each company of militia, or military company, shall turn out for inspection of arms and military exercise, on the last Wednesday of June annually ; and also some time in the months of August or September annually ; and at such other times as the commanding officers of the companies may direct, not exceeding four times ; and each regiment shall be called out in the months of September or October annually, except in such cases when, by permission from the brigadier-general of their brigade, they are allowed to muster by battalions.

Refreshment to be furnished. **SECT. 12.** *And be it further enacted,* That the selectmen of the several towns and unincorporated places within this state, shall furnish suitable meats and drinks for the refreshment of all non-commissioned officers and soldiers, within their several towns and places, or thirty-four cents in lieu thereof, for each man, on regimental and battalion musters, which may be in the months of September and October ; and also one quarter of a pound of powder to each non-commissioned officer and soldier ; at the expense of said towns and places ; and it shall be the duty of each soldier to consume said powder when directed by his commanding

Powder to be furnished.

officer ; the meats and drinks to be furnished on the parade where such regimental or battalion musters are ; the number of men ascertained by a roll, certified by the commanding officer of the company to which they belong. And if the selectmen of any town or place, after proper notice of such muster, shall neglect or refuse to furnish the supplies aforesaid, they shall forfeit and pay the sum of fifty cents for each non-commissioned officer or soldier whom they shall neglect to furnish, to be recovered by the commanding officer of the company which shall be so neglected, in any court proper to try the same, to be appropriated towards defraying the expenses of said company.

Selectmen
fired for neglecting to furnish supplies.

Fines how recovered.

SECT. 13. *And be it further enacted,* That any person who has already enlisted, or may hereafter enlist, from any company of infantry, into any company of artillery, cavalry, light infantry or grenadiers, shall not be exempted or excused from doing duty in the company from which he enlisted, until he is uniformed and equipped to do duty in the company into which he enlists.

Soldiers not excused till equipped

SECT. 14. *And be it further enacted,* That in forming the cavalry, artillery, light infantry and grenadiers, not more than one eleventh part shall enlist out of any one company of infantry into such corps, unless by permission of the field officers of the regiment to which such company belongs.

How many may enlist.

SECT. 15. *And be it further enacted,* That every citizen, enrolled as directed in this act, and provided with arms and accoutrements, shall hold the same exempt from all suits, distresses, executions, or sales for debt, or for the payment of taxes ; and shall also, while under the age of twenty-one years, be exempt from a poll tax. And that no officer, non-commissioned officer, musician, or private soldier, while on duty, or while going to or from training, shall be liable to be arrested on civil process.

Exemptions from attachment and arrest.

SECT. 16. *And be it further enacted,* That no non-commissioned officer, or private soldier, shall, upon any muster day, or the evening of the same day, discharge and fire off a musquet or gun, in any publick road, or near thereto, or in or near to any house, or on or near the place of parade, unless leave therefor be first had from a commissioned officer, on penalty, for each offence so committed, the sum of one dollar, to be recovered by action before any justice of the peace within the county where such offence shall be committed, by any person who shall sue therefor, with cost of prosecution.

Penalty for discharging guns without leave.

SECT. 17. *And be it further enacted,* That where there are, or hereafter may be, any company or companies of militia unorganized, and where suitable characters cannot be found within the limits of said companies, necessary for the organization of the same, the field officers, within whose limits such company or companies are, may annex

Field officers may annex soldiers of unorganized companies to other companies

such persons as are liable to do duty in the train band, to any organized company or companies contiguous thereto, as may be most convenient; and the persons so annexed shall be liable to do duty, and subjected to penalties, in the same manner as though they were officered by persons living within the particular town in which they reside.

SECT. 18. *And be it further enacted,* That the captain of each company of artillery, organized according to law, (who has not received his money for building a gun-house) be entitled to receive out of the treasury the sum of fifty dollars, for the purpose of erecting a gun-house for the safe keeping of the ordnance, carriage, harness and apparatus belonging to his company; and the governor, being certified by the commanding officer of a regiment, that a company of artillery is organized within the same as aforesaid, shall give the captain of such company an order on the treasurer for the aforesaid sum; and if, after the erection and completion of said gun-house, any part of said sum shall remain unexpended, the sum so remaining shall be appropriated for the purpose of instructing the military musicians in the regiment in which said company of artillery may be formed: that in case any captain shall neglect or omit to appropriate the money by him received by virtue of this act, for the purposes herein expressed, within one year from the time of his receiving the same, he shall forfeit and pay the sum of one hundred dollars, to be recovered by any person who may first sue for the same, before any court in this state, of competent jurisdiction; the one half to the use of the regiment in which such company of artillery may be formed, to be appropriated for musical instruments and instructing the military musicians in said regiment; and the other half to the use of the person suing for the same: and that the field officers of the respective regiments shall locate the place where each gun-house shall be erected; and that a deed, conveying the fee of the land on which the same shall be erected, shall be executed to the state of New-Hampshire, and lodged in the secretary's office before the buildings are completed.

Gun houses.

Fine for neglecting to appropriate.

Deed to be executed, &c.

Gun-house may be removed.

Provided, That the field officers of the regiment to which any gun-house may belong, shall have power to remove the same, whenever in their opinion the companies in such regiment shall be more accommodated thereby; they first causing the title to the land to which such gun-house may be removed, to be vested in this state; and shall have power to dispose of the land from which such gun-house may be removed.

SECT. 19. *And be it further enacted,* That in case the captain of any company of infantry, artillery, cavalry, light infantry, or grenadiers, shall neglect or omit to appropriate the money by him received for the purpose express-

ed in this act, within six months from the time of receiving the same, he shall forfeit and pay the sum of thirty dollars, to be recovered by any person who may sue for the same, before any court in this state, of competent jurisdiction; the one half to the use of the company to which said money was to have been appropriated, and the other half to the use of the person suing for the same.

Fine for neglecting to appropriate money.

SECT. 20. *And be it further enacted*, That the captain general be, and hereby is, authorized to appoint such number of aids-de-camp as he shall think necessary, to be commissioned by the governor, with the rank of lieutenant-colonel commandant.

Captain general may appoint aids.

SECT. 21. *And be it further enacted*, That there shall be an adjutant-general, whose duty it shall be to distribute all orders from the commander in chief of this state to the several corps; to attend all publick reviews, when the commander in chief of this state shall review the militia or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by law; to furnish blank forms of different returns that may be required, and to explain the principles on which they shall be made; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies and every other thing which relates to the general advancement of good order and discipline. And compensation shall be made to the adjutant-general, for his services, from time to time, by the legislature, as they shall think just.

Duty of adjutant general.

Compensation to Adj. Gen.

SECT. 22. *And be it further enacted*, That the rules of discipline approved and established by congress, in their resolution of the twenty-ninth of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia of this state.

Rules of discipline.

SECT. 23. *And be it further enacted*, That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear equal date, and whose prior pretensions to seniority cannot be ascertained, then the rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment. And when it shall so happen, that officers of different corps shall be on duty together, the first officer in rank shall command, whether of the infantry, cavalry, artillery, light infantry, or grenadiers.

Rank of Officers.

SECT. 24. *And be it further enacted*, That at all musters of the militia, when more than one company shall be on the parade at the same time, the officers shall be posted with their several companies, and the companies shall take rank according to seniority; and that all commissioned offi-

Rank of companies.

See 5th sect.
of act passed
June 23, 1813.
p. 309.

cers, belonging to any company of infantry, shall reside within the limits of such company. And in case more than one company of cavalry or light infantry shall be formed in the same regiment, the company formed in the first battalion shall take rank as the senior company.

Non-commissioned officers
may be reduced to ranks.

SECT. 25. *And be it further enacted*, That non-commissioned officers be reduced to the ranks for any misdemeanor which, in the opinion of all the commissioned officers of the company, and the commanding officer of the regiment, shall deserve such punishment.

Repealed by
act of June
27, 1809. 1st
sect.
p. 306.

SECT. 26. *And be it further enacted*, That it shall be the duty of the several adjutants to inspect the arms and accoutrements of the several regiments to which they belong, and make return of the same to the brigade-major within thirty days; for which duty each adjutant shall receive two dollars out of the treasury of this state.

Duty of brigade-major.

SECT. 27. *And be it further enacted*, That it shall be the duty of each brigade-major to inspect the arms and accoutrements of their several brigades, when met under arms; for which duty they shall severally receive four dollars out of the treasury of this state; and shall make all returns of said brigade to the adjutant-general; and they shall receive for each return one dollar; which return shall be made within thirty days from his inspecting or receiving said returns.

Field officers
to arrange
companies.

SECT. 28. *And be it further enacted*, That the field officers of each and every regiment shall form and arrange the companies in their several regiments, from time to time, as they shall think the publick good may require.

Colour of
uniform.

SECT. 29. *And be it further enacted*, That the colour and fashion of the uniform of the cavalry, artillery, light-infantry and grenadiers shall be determined by the field officers of the regiment in which such corps may reside; and the colour of the uniform of the infantry be determined on by the commander in chief.

Returns

SECT. 30. *And be it further enacted*, That the several commanding officers of companies shall cause accurate returns to be made of their companies, to the commanding officer of the regiment to which they belong, before the first day of August annually; that the commanding officer of each regiment shall cause to be made to the brigade-major a proper return of his regiment before the first day of September annually: and the respective brigade-majors shall make out to the adjutant-general, returns of their respective brigades before the first day of October annually: from all which, the adjutant-general shall make out a return of the militia of this state, and lodge the same with the commander in chief, before the first day of December annually; and transmit a copy of the same to the president of the United States before the first day of January annually.

SECT. 31. *And be it further enacted,* That it shall be accounted sufficient notice to any non-commissioned officer or private, for appearance on muster days, to be notified of such muster by a non-commissioned officer in person, or by any other person or persons duly authorized by the commanding officer of said company, or by a writing by him signed, to be left at his usual place of abode, four days prior to such day of muster; and if any non-commissioned officer or private, after such notification, shall unnecessarily neglect to appear, he shall pay a fine of three dollars for regimental or battalion musters, and two dollars for each and every other training.

Notice for musters.

Fine for non-appearance.

SECT. 32. *And be it further enacted,* That each non-commissioned officer or private, who shall appear on the parade not completely equipped agreeably to law, shall, for each article with which he shall neglect to appear, pay the following sums, as fines for the equipments, with which he shall not be provided, *viz.* for a gun, eighty cents; steel or iron ram-rod, twenty cents; bayonet, scabbard and belt, twenty-five cents; two flints, ten cents; priming wire and brush, ten cents; cartridge-box, twenty-five cents; knapsack, twenty cents, and canteen, ten cents; which sums shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of the captain or commanding officer of said company, to be directed to the first serjeant of the company, who is to levy the same by the same rules and regulations as the laws have pointed out for collecting rates and taxes (excepting he shall not be obliged to give the fourteen days notice after receiving the warrant) and shall have one quarter part thereof for his trouble, and the same fees that are allowed to sheriffs for the levying of executions; and if no goods and chattels of the delinquent are to be found, then to levy the same on the body of such delinquent: provided nevertheless, That no such warrant shall be issued until fifteen days after said muster days, that the delinquent may have time to make his excuse (if any he has) for his non-appearance or non-equipment, which is to be made to the commanding officer of the company. And in case the said first serjeant be liable to a fine as aforesaid, then the warrant to be directed to any other serjeant in said company.

Fine for non-equipment.

To be levied by distress.

Proviso.

SECT. 33. *And be it further enacted,* That such of the infantry as are under the care of parents, masters, or guardians, shall be furnished by them with arms and accoutrements, and such as are unable to furnish themselves, shall make application to the selectmen, who shall certify to the captain or commanding officer, that they are unable to equip themselves; and the said selectmen shall, at the expense of the town, provide for, and furnish, such persons with arms and equipments: and provided the selectmen shall refuse or neglect to furnish the arms and accoutrements as before

Parents, masters, &c. to furnish arms, &c.

Persons unable to equip themselves, selectmen to furnish equipments.

mentioned, it shall be the duty of the commanding officer of the companies respectively, in which such poor persons shall be enrolled, to furnish such arms and accoutrements at the expense of the town; and the town shall be liable to pay the same; which arms and accoutrements shall be the property of the town, at whose expense they were provided; and if any person so furnished shall embezzle, damage or wilfully destroy the same, he shall be punished by any court proper to try the same, upon complaint made by the selectmen of the town, by fine or imprisonment, or both; but in no case shall the fine exceed double the value of the arms and accoutrements so lost or destroyed, nor shall the imprisonment exceed sixty days; and all fines recovered for embezzling or destroying of arms and accoutrements, as provided in this act, shall be paid into the hands of the selectmen, to be appropriated in purchasing arms and accoutrements for such soldiers as are unable to purchase for themselves.

Fine for destroying arms, &c.

Fines how appropriated.

SECT. 34. *And be it further enacted*, That parents, masters and guardians shall be liable for the non-appearance and neglect of such persons as are under their care, (and are liable by law to train) and are to be proceeded against, for the penalty, in the same manner as by this act is provided against other delinquents; and the warrant of distress that may be issued against such persons, may be varied from the common form, as circumstances may require.

Parents, masters, &c. liable for the non-appearance of children, &c.

SECT. 35. *And be it further enacted*, That when any non-commissioned officer shall refuse or neglect to notify or warn any of the non-commissioned officers or private soldiers of the company to which he belongs, (being thereto ordered by his superior officer) he shall pay a fine of two dollars for each non-commissioned officer and soldier he shall neglect to warn, to be recovered in the same way and manner as is before provided.

Fine for neglecting to warn.

SECT. 36. *And be it further enacted*, That all fines recovered of any non-commissioned officer or soldier by virtue of this act, (excepting that part that accrues to the serjeant who collects the same) shall be paid into the hands of the commanding officer of the company to which such non-commissioned officer or soldier may belong, to be expended in defraying the necessary expenses of such company as the commissioned officers of the same may direct.

Fines how appropriated.

SECT. 37. *And be it further enacted*, That the captain or commanding officer, at the head of his company, may direct his non-commissioned officers and soldiers to meet, at any future time, within thirty days then next ensuing; which shall be a legal notice to such as are present.

Commanding officer may give notice.

SECT. 38. *And be it further enacted*, That if any non-commissioned officer or soldier shall prove refractory, or disobedient, on muster-day, or shall insult or abuse his officers, or either of them, or treat them with disrespect or

Soldiers disobedient to be tried, &c.

contempt, the commanding officer present may order the offender to be immediately tried by five commissioned officers, if so many should be present ; and if not so many present, as many as there are in the field ; who are empowered to punish the offender, by ordering him to pay a fine not exceeding ten dollars, at the discretion of the officers.

SECT. 39. *And be it further enacted,* That on all muster-days, every officer shall yield due obedience to his superior officer, and every non-commissioned officer and soldier shall yield entire and due obedience to the commands of their superior officers ; and if any officer shall on such days, (or at any other time) refuse or neglect to obey the orders he may receive from his superior officers respecting any matter relating to the government of the militia, he shall be tried by a court martial, and, if convicted thereof, shall be cashiered, or reprimanded in orders by the officer appointing the court martial, as the members of said court shall determine : And the superior officer may immediately put such offender in arrest, and report him and his offence to the officer commanding the brigade, (if the offender is under the rank of a field officer) and the commanding officer of the brigade is hereby empowered to appoint a court martial for such trial, and to approve or disapprove the sentence, as he may think just ; and in case the offender is of the rank of a field officer, or of higher rank, his offence shall be reported to the major-general, or officer commanding the division, who is hereby empowered to appoint a court martial for the trial of such offender, to approve or disapprove the sentence as aforesaid.

Officers to obey their superiors.

Liable to arrest for disobedience.

The commander in chief shall, at all times, have the right of appointing courts martial whenever he shall think it necessary.

Courts martial.

All courts martial, when appointed by the commander in chief, shall consist of thirteen members, the president of which shall be of the rank of major-general.

All courts martial, when appointed by a major-general, shall consist of thirteen members, and the president shall be a lieutenant-colonel, or officer of higher rank.

All courts martial appointed by a brigadier, shall consist of thirteen members, the president of which shall at least be of the rank of a field officer.

The members of the courts martial are to be sworn by the president, or judge-advocate ; and the president shall be sworn by the judge-advocate, or the next highest in rank of the members composing the same ; and the president, or judge-advocate, of every court martial, shall have power to administer the oath to every witness.

Members to be sworn.

In order to the trial of offenders, the oath of the president and members shall be in the words following, viz.

“ You swear, that you will well and truly try, and impartially determine, the charge against the person now to

Oath of members.

be tried, according to the rules for regulating the militia of this state.

"So help you GOD."

The oath to be administered to witnesses in courts martial, shall be in the form following, viz.

Witnesses' oath.

"You swear, the evidence you shall give relative to the charge now in hearing, shall be the truth, the whole truth, and nothing but the truth.

"So help you GOD."

Officers amenable for ungentlemanlike conduct.

SECT. 40. *And be it further enacted,* That all military officers shall be amenable to a court martial for any un-officer or ungentlemanlike conduct or behaviour, while on duty, and at all other times; and to be tried, and sentence approved, in the same way and manner as before provided for disobedience of orders.

Witnesses refusing to appear, &c. how punished.

SECT. 41. *And be it further enacted,* That all persons called by summons from the president of any court martial to give evidence, who shall unreasonably refuse or neglect to appear, or appearing, shall refuse to give evidence, shall be committed to the common gaol of the county where such court is sitting, there to remain three months, unless sooner discharged therefrom by the justices of the superior court: And the president of such court is to lodge the accusation against him with the prison-keeper. And every witness, when summoned by the president of any court martial, who shall attend for the purpose of giving testimony, shall be allowed the same compensation for travel and attendance, as witnesses are in civil causes.

Compensation to witnesses.

Judge advocate, his duty.

SECT. 42. *And be it further enacted,* That every person appointing a court martial shall appoint some suitable person to act as judge-advocate, who shall make a fair record of the whole proceedings, and deliver them to the officer appointing said court martial, who shall cause the same, or a copy thereof to be lodged in the secretary's office, within three months after such trial.

Commander may appoint watches.

SECT. 43. *And be it further enacted,* That the commander in chief, the officers commanding divisions, brigades, or regiments, may appoint military watches or guards, when an invasion of the state is apprehended, in such place or places, and under such regulations, as they may judge necessary: and all officers and soldiers under their command are to yield strict obedience to their orders and directions.

Captain-general to fix signals.

SECT. 44. *And be it further enacted,* That the signals for an alarm are to be fixed by the captain-general, and may by him be altered from time to time, and proper notice thereof is to be by him given to the several officers; and if any non-commissioned officer or soldier shall, upon the alarm being given, unnecessarily neglect to appear properly armed and equipped at such time and place as the commanding officer shall appoint, he shall pay a fine of ten dollars; and all persons serving on any military guards, or watches, shall be punishable for misconduct while in such

Guards punishable for misconduct.

service, by a court martial to be appointed by the commanding officer of such guard or watch, provided he be a field officer, and in case he is not, then by the commanding officer of the regiment to which the offender belongs.

SECT. 45. *And be it further enacted*, That when any non-commissioned officer or soldier shall think himself unable to perform military duty, and shall procure a certificate, certifying his disability, from the surgeon or surgeon's mate of the regiment to which he belongs, to the commanding officer of the company, then said non-commissioned officer or soldier shall be considered as excused from military duty, until it shall be thought by the commanding officer of said company, and the surgeon or surgeon's mate for the time being, that such disability is removed.

This section repealed by act of June 23, 1809 p. 309

SECT. 46. *And be it further enacted*, That in all towns where there may be fire engines, eighteen persons for each engine shall be excused from doing duty on training days, excepting the annual training in the month of June, upon certificate from the selectmen to the commanding officer of the company to which they belong: *Provided, nevertheless*, They shall be constantly armed and equipped according to law, and shall be liable to do duty in the militia at all times when they do not belong to said engines.

Fire engines. See act of June 28, 1813. p. 506. Proviso.

SECT. 47. *And be it further enacted*, That the warrant of distress to be issued in case of unnecessary neglect to appear equipped on muster days, shall be in the following form, the blanks therein to be filled up as the circumstances of the case may require.

STATE OF NEW-HAMPSHIRE.

(L.S.) *To*.....*sergeant of*.....*company, in*
the.....*regiment of militia of said state,*

Form of warrant of distress.

Greeting.

Whereas of in the county of a private soldier, enrolled according to law, and liable to do duty in said company, was duly notified and ordered to appear on the parade near to in on the day of Anno Domini, one thousand eight hundred and at the hour of of the clock in the noon, equipped with arms, ammunition and accoutrements, according to law, for inspection and military exercises, and there to attend until further orders, being the time and place for mustering said company; but the said did unnecessarily neglect to attend equipped as aforesaid, agreeably to said orders and notice: And whereas more than fifteen days have elapsed from said day of muster, and the said hath neglected to make excuse to the commanding officer of said company for non-appearance as aforesaid; whereby the said hath incurred the penalty, and become liable by law to pay a fine of to be disposed of according to the law in said case made and provided. You are, there-

fore, in the name of the state of New-Hampshire, hereby required, by distress and sale of the goods and chattels of the said to levy and collect the aforesaid sum of together with forty cents for this precept; and thereof also to satisfy yourself for your own fees: And for want of such goods and chattels, whereon to make distress, you are hereby commanded to take the body of the said and him commit unto the gaol in in said county; and the keeper of said gaol is accordingly commanded to receive the said and him detain in his custody, within said gaol, until he pay the aforesaid sums, with all lawful fees; or otherwise be discharged by due course of law. And you are in all respects to observe and follow the rules and directions of the laws respecting the premises. And you are hereby directed to make return of this precept, with your doings thereon, unto me the undersigned, or the commanding officer of said company for the time being, within forty days from the date hereof.

Given under my hand and seal at in said county, this day of Anno Domini, one thousand eight hundred and

{ Commanding officer
of said company.

Gun-powder
to be provid-
ed.

SECT. 48. *And be it further enacted*, That every town and plantation in this state shall be constantly provided with thirty-two pounds of good gun-powder, sixty-four pounds of musquet balls, one hundred and twenty-eight flints, and three iron or tin camp-kettles to every sixty-four soldiers enrolled in the militia in every such town or plantation, and the same proportion for a greater or less number.

Quartermas-
ter to inspect
magazines.

SECT. 49. *And be it further enacted*, That if any town or plantation within this state shall neglect or refuse to supply themselves with said articles, within six months from the passing of this act, such town or plantation shall forfeit and pay three times the value of each and every article so neglected to be furnished as aforesaid, to be recovered before any court competent to try the same, the one half to the prosecutor, and the other half to the state; and it shall be the duty of the quarter-master of each regiment, in the month of December annually, to inspect the magazines of each town and plantation within the regiment to which he belongs, and shall prosecute each and every town and plantation which shall be found deficient of having any of the aforesaid articles.

Selectmen to
provide, &c.

SECT. 50. *And be it further enacted*, That it shall be the duty of the selectmen of the several towns and plantations within this state to provide some suitable place that the same may be deposited, and kept constantly in readiness for the use of the militia in case of emergency.*

* Sections 48, 49, 50, suspended by act June 26, 1809, and repealed by act June 15, 1810. p. 305, 306.

SECT. 51. *And be it further enacted*, That no person shall be deemed or taken to be a Quaker or Shaker, within the meaning of this act, unless he shall annually, in the month of May, deliver to the captain or clerk of the company wherein he resides, a certificate signed by two of the overseers, and countersigned by the clerk of the meeting or society with which he meets for worship, in substance as follows, viz.

Quakers and Shakers excused.

"We the subscribers, overseers of the meeting or society of in the town of in the county of do hereby certify, that frequently and usually attends with said society for publick worship, and is a regular member thereof; and we believe is conscientiously scrupulous of bearing arms."

Form of certificate.

Which certificate, so signed and delivered as aforesaid, shall exempt the person therein named from doing military duty for the term of one year.

SECT. 52. *And be it further enacted*, That there shall be a quarter-master-general to this state, who shall have the rank of brigadier-general; that to each brigade there shall be one quarter-master of brigade, who shall be appointed by the brigadier general with the rank of major; and one chaplain to each regiment, to be appointed by the field officers.—And the commander in chief is hereby authorized to commission them accordingly.

Quarter-master-general, &c. to be appointed.

SECT. 53.* *And be it further enacted*, That every fine arising by any breach of this act, for which no special mode of recovery has been pointed out, may be recovered by action, bill, plaint, or information, in any court proper to try the same.

Fines how recovered.

Approved December 22, 1808.

* There is an error in the original in the numbering of the sections, the 14th having been omitted by mistake.

AN ACT to form a Company of Grenadiers in the Town of Dublin.

[SPECIAL.]

Passed Dec. 22, 1808.

AN ACT to Incorporate a Military Company in Concord, by the name of the New-Hampshire Independent Volunteers.

[SPECIAL.]

Passed Dec. 22, 1808.

AN ACT in addition to an act to Incorporate a Military Company in Concord, by the name of the New-Hampshire Independent Volunteers, passed December 22, 1808.

[SPECIAL.]

Passed June 23, 1809.

AN ACT to postpone the operation of the forty-eighth, forty-ninth, and fiftieth Sections of the act made and passed December 22, 1808, entitled, "An act for arranging, forming and regulating the Militia within this State, and for repealing all Laws heretofore made for that purpose."

Passed June 26, 1809.

By this act the operation of those sections was postponed for one year from the first day of July, 1809.

Passed June
15, 1810.

AN ACT to repeal the forty-eighth, forty-ninth and fiftieth Sections of the act made and passed December 22, 1808, entitled, "An act for arranging, forming, and regulating the Militia within this State, and for repealing all Laws heretofore made for that purpose."

By this act those sections were repealed.

Passed June
27, 1809.

AN ACT in addition to an act, made and passed December 22, 1808, entitled, "An act for arranging, forming and regulating the Militia within this State, and for repealing all Laws heretofore made for that purpose."

26th section
of former act
repealed.
p. 298.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That the twenty-sixth section of said act, which section is in the following words: "And be it further enacted, That it shall be the duty of the several adjutants to inspect the arms and accoutrements of the several regiments to which they belong, and make return of the same to the brigade-major within thirty days, for which duty each adjutant shall receive two dollars out of the treasury of this State," be, and the same hereby is, repealed.

Brigade-Ins-
pectors' du-
ty.

Compensa-
tion.

SECT. 2. *And be it further enacted, That it shall be the duty of each brigade-inspector to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; and the several brigade-inspectors shall be allowed for their services as follows, viz. for inspecting each regiment or battalion separately, excepting the regiment in which he resides and has his home, two dollars; and for each mile of actual and necessary travel to do said duty, eight cents; and for making out to the adjutant-general the return of the brigade by him inspected, one dollar.*

Approved June 27, 1809.

Passed June
28, 1809.

AN ACT to exempt Members of Fire Engine Companies from doing Military duty in the month of June annually.

See 46th sect.
of act of Dec.
22, 1808.
p. 303.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, all persons belonging to any fire engine company in this state, shall be, and they are hereby, excused from doing military duty on the annual training in the month of June, so long as they shall continue members of such company.

Approved June 28, 1809.

*AN ACT in addition to an act, entitled, "An act for ar-
ranging, forming and regulating the Militia within
this State, and for repealing all Laws heretofore made
for that purpose."* Passed June
16, 1810.

[SPECIAL.]

This act authorizes the artillery company in the 25th regiment, to equip themselves in the form of a company of horse artillery.

*AN ACT to organize a Volunteer Corps of Infantry for
the Service of this State.* Passed Dec.
17, 1812.

WHEREAS several companies have lately been formed in this state, by citizens of the same, who by law are exempt from military duty, for the purpose of arming and equipping themselves at their own expence, and holding themselves in readiness to turn out at a moment's warning, to repel invasions and suppress insurrections.—And whereas, for the purpose of carrying into effect so laudable an intention it is necessary that provision be made by law ;

Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That whenever any citizens of this state, of the above description, and for the above purpose, not less than forty, nor more than one hundred in number, shall represent to the governor, in writing, that they have thus associated, and have chosen for their officers, one captain, one first lieutenant, one second lieutenant, and one ensign, it shall be the duty of the governor to commission such persons accordingly.

SECT. 2. *And be it further enacted,* That each of such companies may forever on the first Monday of March annually, elect their officers as aforesaid, who shall, as soon as may be, be commissioned as above described, and said companies may choose such non-commissioned officers as to them may seem proper.

SECT. 3. *And be it further enacted,* That when a sufficient number of such companies shall have been formed and organized as aforesaid, the commander in chief may form them into a regiment, by appointing and commissioning suitable officers for that purpose, in the same way and manner as by law he is now authorized to appoint regimental officers; and such regiment and companies shall be liable to be called into actual service by the commander in chief, in the same way and manner as the militia now are; in which case they shall be entitled to the same pay, rations and clothing as the militia shall, or may be, by law entitled.

Field officers
how appoint-
ed.

SECT. 4. *And be it further enacted,* That the soldiers composing such companies, shall be subject to the same fines and penalties for disobedience of the orders of their commanding officers as the soldiers of the militia now are.

Subject to
fines and pen-
alties for dis-
obedience.

And the officers of such corps shall be under the same penalties for disobedience of the orders of the commander in chief, as officers of the militia are, as by law established.

May make
by-laws.

SECT. 5. *And be it further enacted*, That each of the said companies may make and establish such rules and by-laws as to them may seem proper, provided such rules and by-laws be not repugnant to the constitution and laws of this state.

Proviso.

Provided, nevertheless, That said regimental officers shall be taken from said companies. And *provided also*, that said volunteers shall not be subject to the commands of any other than their own officers, except the commander in chief, and excepting in case of invasion, when they shall be under the direction of the commander of the militia then in the field.

Approved December 17, 1812.

Passed Dec.
8, 1812.

Artillery
companies to
repair field
piece apparatus,
&c.

RESOLVED, That it shall be the duty of the respective companies of artillery in this state, after they shall have been supplied with one field piece, together with the necessary equipments and apparatus belonging to the same, to repair the same at their own private expense so far as extends to the common and ordinary reparations necessarily arising thereon; any law, usage or custom to the contrary notwithstanding.

Approved December 8, 1812.

Passed Dec.
16, 1812.

Arms to be
distributed a-
mong the mi-
litia, when
called into
actual ser-
vice.

RESOLVED, That his excellency the governor for the time being be, and he is hereby authorized and empowered to distribute, as he may think proper, among the militia of this state, when called into actual service, the arms which are now, or may hereafter be lodged in the hands of the commissary general; and that the commissary general be required to take such receipts for said arms, to the acceptance of the executive, as will secure their return, whenever said militia are dismissed from actual service; and it shall be the duty of the commissary general to demand and cause a return of said arms to be made into his office immediately upon disbanding said militia.

Approved December 16, 1812.

Passed Dec.
17, 1812.

RESOLVE authorizing the Governor to purchase Powder, Lead and Flints. [SPECIAL.]

Passed June
17, 1813.

AN ACT to attach the companies of Militia, in the town of Roxbury, to the twelfth regiment of Militia in said State.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the companies of militia which are now, or may hereafter, be estab-

lished in the town of Roxbury, in the county of Cheshire, in said state, be attached to the second battalion in the twelfth regiment of militia in said state.

SECT. 2. *And be it further enacted*, That the company of infantry to be organized in said town of Roxbury, shall be numbered the tenth company, and shall take rank in said twelfth regiment accordingly.

Approved June 17, 1813.

AN ACT in addition to an act, entitled, "An act for arranging, forming and regulating the Militia within this State," passed December twenty eighth, A.D. 1808.* Passed June 23, 1813.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That when any non-commissioned officer or soldier shall think himself unable to perform military duty on account of bodily infirmity, and shall obtain from a majority of the selectmen of the town or place to which such non-commissioned officer or soldier belongs, and from the surgeon or the surgeon's mate of the regiment to which he belongs, a certificate from under their hands, that he is unable to perform military duty on account of bodily infirmity, (the nature of which infirmity shall be described in said certificate) for such term of time as they shall judge reasonable, not exceeding one year; which certificate, obtained as aforesaid, shall entitle such non-commissioned officer or soldier to exemption from military duty for the time in said certificate specified.

In case of bodily infirmity.
See p. 303.

Certificate.

SECT. 2. *And be it further enacted*, That any surgeon or surgeon's mate, or any selectman of any town or place in this state, who shall demand, take, or receive, from any disabled person, any money, or other compensation, for executing the certificate aforesaid, shall forfeit and pay the sum of six dollars for every such offence, to any person who shall sue for the same, in any court of competent jurisdiction.

Certificate not to be paid for.

SECT. 3. *And be it further enacted*, That all fines, for non-appearance on regimental, battalion, or company musters, or trainings, as by law established, shall be collected in the same manner and form as fines for non-equipments are provided to be collected by the thirty-second section of the act to which this act is in addition.

Manner of collecting fines.
P. 299.

SECT. 4. *And be it further enacted*, That the forty-fifth section of the act to which this act is in addition, be, and the same is hereby, repealed.

45th section repealed.
p. 303.

SECT. 5. *And be it further enacted*, That nothing in the twenty-fourth section of the act passed December 22, A. D. 1808, shall be construed to affect or alter the rank of any company of cavalry previously established.

Rank of cavalry not to be altered.
p. 297.

Approved June 23, 1813.

* This is so in the original by mistake for *twenty-two*.

Passed June 24, 1813. *RESOLVE for calling forth the Militia in case of actual Invasion, &c. passed June 24, 1813.*
[SPECIAL.]

Passed Nov. 5, 1813. *AN ACT in addition to an act, entitled, "An act for arranging, forming and regulating the Militia within this state," passed December 22, 1808.*

Arms of officers. **SECT. 1.** *BE it enacted by the senate and house* of representatives, in general court convened, That the commissioned officers shall be severally armed with a sword or hanger; and that all officers, whose duty it is to be mounted on horseback, shall be armed with a sword and pair of pistols; any law to the contrary notwithstanding.*

Paragraph of former act repealed. **SECT. 2.** *And be it further enacted, That so much of the fifth paragraph in the sixth section of the act to which this act is in addition, as is in the following words, to wit—"That the commissioned officers shall be severally armed with a sword or hanger and esponton," be, and the same is hereby repealed.* *Approved November 5, 1813.*

* In the original it is the house.

Passed June 24, 1814. **RESOLVED**, that the adjutant-general shall pay annually, the commanding officers of the several companies in this state, the sum of two dollars, to be by them appropriated for the purchase and repairs of instruments of musick, for the use of said companies; which resolve shall take effect from and after the first Wednesday of June next.

Approved June 24, 1814.

Passed Feb. 8. 1791. *AN ACT for the Punishment of certain Crimes.*

[Sept. 15, 1792.] **SECT. 1.** *BE it enacted by the senate and house of representatives, in general court convened, That if any person or persons, owing allegiance to this state, shall levy war, or conspire to levy war against the same, or shall in any way within this state or elsewhere, give aid and comfort to the enemies of this state, and shall be thereof convicted, either on confession in open court, or on the testimony of two witnesses, to the same overt act of treason, of which such person is indicted, such person or persons shall be adjudged guilty of treason against this state, and shall suffer death.*

Treason. **SECT. 2.** *And be it further enacted, That if any person or persons, knowing any such treason to have been committed, or having knowledge of the intent of any person or persons to commit any such treason, shall not within fourteen days from the time of his having such knowledge, give information thereof to the president of this state, some of the justices of the superior court of judicature, or some justice of*

Misprision of treason.

the peace, such person or persons shall, on conviction, be adjudged guilty of misprision of treason, shall be imprisoned not exceeding seven years, and fined not exceeding five hundred pounds.

SECT. 3. *And be it further enacted*, That if any person shall commit wilful murder, such person shall on conviction thereof suffer death. Murder.

SECT. 4. *And be it further enacted*, That if any woman shall endeavour privately to conceal the death of any issue of her body (which if born alive would by law be a bastard) so that it may not come to light, whether it were born alive or not, or whether it was murdered or not, in every such case the mother so offending, on being thereof convicted, shall be set on the gallows for the space of one hour, and may be imprisoned not exceeding two years, or instead of being set on the gallows, may be fined not exceeding three hundred pounds. Concealment of the death of a bastard child.

And where the grand jury shall charge in the same indictment, any mother with the murder of her infant bastard child, as well as with the offence before described of concealing the death of such infant, the jury who pass upon the trial, may acquit as to the murder, and convict of the said offence of concealing as aforesaid.

SECT. 5. *And be it further enacted*, That if any person shall commit manslaughter, and be thereof convicted, such person shall be set on the gallows for the space of one hour with a rope about his neck, and one end thereof shall be cast over the gallows, and imprisoned not exceeding twelve months, bound to good behaviour a term not exceeding three years, and fined not exceeding three hundred pounds; and the court before whom the conviction shall be, shall order the person convicted to suffer all, or part of the foregoing punishments, according to the circumstances and aggravations of the offence. Manslaughter.
See act of 19 June, 1812.
Sect. 4.

SECT. 6. *And be it further enacted*, That if any man shall ravish and carnally know any woman, committing carnal copulation with her by force, against her will, or if any man shall unlawfully and carnally know and abuse any woman child, under the age of ten years, every person so offending in either of those cases, on conviction shall suffer death. Rape.
See act of 19 June, 1812.
Sect. 6.

SECT. 7. *And be it further enacted*, That if any man shall carnally lie with a man, as a man carnally lieth with a woman, or if any man or woman shall have carnal copulation with any beast or brute creature, and be thereof convicted, the offender in either of those cases before mentioned, shall suffer death, and the beast shall be slain and burned. Sodomy.
See act of 19 June, 1812,
Sect. 5.

SECT. 8. *And be it further enacted*, That if any person shall in the night time break and enter any dwelling-house in this state, with intent to kill, rob, steal, or to do or perpetrate any felony, the person so offending being thereof convicted shall suffer death. Burglary.
See act of 19 June, 1812,
Sect. 1.

Arson.

See act of 19
June, 1812,
Sect. 9.

SECT. 9. *And be it further enacted*, That if any person between sun-sitting and sun-rising shall wilfully and maliciously burn the dwelling-house of another, or any out-building adjoining thereto, or any other building, by means of which a dwelling-house shall be burnt, such person on conviction of any such offence, shall suffer death.

Burning in
the day time.

Burning by
night or day
any publick
building,
ship, &c.

See act of 19
June, 1812,
Sect. 10, 11.

SECT. 10. *And be it further enacted*, That if any person between sun-rising and sun-sitting, shall wilfully and maliciously burn the dwelling-house of another, or any out-building adjoining thereto, or any other building, by means of which a dwelling-house shall be burnt, or if any person shall wilfully and maliciously by night or by day, burn any barn, ware-house, shop, mill, malt-house, out-house, any school-house, meeting-house, court-house, or any other building erected for publick or private use, any ship or other vessel used in navigation, or if any person shall wilfully and maliciously burn any stacks of corn, hay, grain, fences, piles of boards, lumber or wood, the person offending in either of the cases aforesaid, being thereof convicted, shall be sentenced to be set in the pillory, whipped, imprisoned, bound to good behaviour, or fined a sum not exceeding one thousand pounds, or any, or all of the foregoing punishments, according to the nature and aggravation of the offence.

Robbery.

See act of 19
June, 1812,
Sect. 3.

SECT. 11. *And be it further enacted*, That if any person shall feloniously assault, rob and take from another person any money, goods, chattels, or other property, that may be the subject of theft, such person being thereof convicted, shall be adjudged guilty of felony, and shall suffer death.

Assault with
intent to
commit murder, &c.

See act of 19
June, 1812,
Sect. 8.

SECT. 12. *And be it further enacted*, That if any person shall make an assault on another with intent to commit murder, rape, sodomy or robbery, or if any person shall assault any woman in the fields, streets, or highways, and offer any violence to such woman, the person so offending, on conviction thereof, shall be fined not exceeding three hundred pounds, imprisoned not exceeding two years, be whipped not exceeding one hundred stripes, as the court before whom the conviction may be, considering the nature and aggravations of the offence may order.

Forgery of
publick securities.

See act of 19
June, 1812,
Sect. 13, 14.

SECT. 13. *And be it further enacted*, That if any person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly aid or assist in the false making, altering, forging or counterfeiting any state note, certificate or other publick security of this state, or shall utter, put off or offer, or cause to be uttered, put off, or offered in payment, or for sale, any such false, forged, altered, or counterfeited state note, certificate, or other publick security of this state, with intention to defraud any person, knowing the same to be false, altered, forged or counterfeited; the person so offending in either of the cases aforesaid, shall on conviction thereof suffer death.

SECT. 14. *And be it further enacted,* That if any person shall wittingly and deceitfully forge or alter, or willingly and deceitfully cause to be forged or altered, or procure, aid and counsel the forging or altering of any matter of record, any writ, process, or other proceedings in the courts or course of justice in this state, any deed of conveyance, last will and testament, obligation or writing sealed, any promissory note, bill of exchange, order, acceptance, assignment or endorsement on them, any acquittance or receipt for money, goods or other thing, or any warrant, order, or request for the payment of money, or the delivery of goods or chattels of any kind, any certificate, or accountable receipt for money, or other thing, any lottery ticket, or any evidence or assurance of money, or other thing whatever, with intent to defraud any person, or if any person shall utter, or publish as true, or cause or procure to be uttered and published as true any of the above false, forged, altered and counterfeited deeds and other matters, as above specified, or shall in any wise be aiding and assisting therein, with intent to deceive and defraud any person; the person so offending, on conviction thereof, shall be punished by setting in the pillory, imprisonment not exceeding three years, and fined not exceeding five hundred pounds, or any or all of these punishments according to the nature and aggravations of the offence.

Forgery of records, obligations, &c.

See act of 19 June, 1812, Sect. 13, 17, p. 319, 320.

SECT. 15. *And be it further enacted,* That no person shall be tried for any offence, for which capital punishment may be inflicted, until a bill of indictment be found against him for such offence, by the grand jurors attending the superior court of judicature; and in all criminal causes the trial shall be had in the county where the offence was committed, if the offence was committed within this state; and in case the offence was committed without the limits of this state, the offender shall be tried in the county where he is apprehended, or in the county into which he is first brought.

Offender must be indicted, and where tried.

SECT. 16. *And be it further enacted,* That every person indicted for treason, or any other crime, the punishment of which is death, shall be entitled to a copy of the indictment found against him, before such person be arraigned thereon; and a list of the witnesses to be used on the trial, and the jurors returned to serve on the same, with their names, and the places of their abode, shall be delivered to the prisoner forty-eight hours before the trial; and the prisoner shall at his request, have counsel learned in the law assigned him by the court, not exceeding two, and such counsel shall have access to the prisoner at all reasonable hours; and the person so accused and indicted, shall have liberty to make his full defence by counsel, and by himself, and to make any proof by lawful witnesses that he may produce, and such prisoner shall have the like process from the

Prisoner to have copy of his indictment,

and counsel.

court before whom the trial may be, to compel witnesses to appear and testify at the trial, as is usually granted to compel witnesses to appear and testify on the prosecution against persons accused.

Standing
mute.

SECT. 17. *And be it further enacted*, That if any person indicted for treason against this state, or for any other offence, for which the punishment by law is death, shall stand mute when arraigned thereupon, a jury shall forthwith be empannelled and sworn to try, whether the person so standing mute, standeth mute by the providence of GOD, or fraudulently, wilfully and obstinately; and if they shall return their verdict that the prisoner standeth mute by the providence of GOD, the court shall thereupon cause the prisoner to be remanded to prison, and shall not proceed against him until he shall have recovered therefrom; but if the jury return their verdict, that the prisoner standeth mute fraudulently, wilfully and obstinately, then the court shall proceed to the trial of the person so standing mute, as if he had pleaded not guilty, and the said court shall render judgment accordingly, except that the person so standing mute, shall not be allowed to make any challenges to the jurors.

Challenges
of jurors.

SECT. 18. *And be it further enacted*, That every person indicted for treason, or any other crime, the punishment of which is death, who shall have duly pleaded to the indictment found against him, and shall have put himself on the country for trial, shall be permitted to challenge, without assigning any reason for such challenge, twenty of the jurors, and as great a number further as he can shew legal cause for challenging; and if any person indicted as aforesaid, after having voluntarily pleaded as aforesaid, shall refuse to put himself on the country for trial, or shall peremptorily challenge a greater number than twenty of the jury, as aforesaid, the court shall disallow of all such peremptory challenges, above the number of twenty, and the jury shall be charged and the trial shall proceed in like manner, in all respects, and the like judgment shall be given, as if the person so refusing to put himself on the country for trial, or so challenging a greater number than twenty jurors, without assigning any cause, had duly put himself on the country for trial, and had not peremptorily challenged a greater number of jurors than by law he might, or could have done.

Attorney
general not
allowed pe-
remptorily to
challenge.

SECT. 19. *And be it further enacted*, That the attorney general or other person prosecuting in behalf of the state, shall not be admitted in any case whatever, peremptorily to challenge any juror, about to be empannelled for the trial of any criminal accusation or charge.

SECT. 20. *And be it further enacted*, That if any person shall be convicted of any crime at common law, wherein by law the benefit of clergy was heretofore allowed, and for

which, without such benefit of clergy, he must have been sentenced to suffer the pains of death, such person shall not be entitled to the benefit of clergy, but instead of the punishment of death, such person shall be punished by being set on the gallows for the space of one hour with a rope about his neck, and the other end thereof cast over the gallows, by fine not exceeding one thousand pounds, by whipping not exceeding thirty-nine stripes, or suffer one or more of these punishments, according to the aggravation of the offence.

Benefit of clergy not allowed.

SECT. 21. *And be it further enacted*, That the benefit of clergy shall not be used, or allowed upon conviction of any crime, for which by any statute of this state, the punishment is or shall be declared to be death.

SECT. 22. *And be it further enacted*, That no person shall be tried for any treason, unless the indictment for the same be found within two years next after the offence committed.

Indictment for treason—limitation.

SECT. 23. *And be it further enacted*, That the manner of inflicting the punishment of death, shall be by hanging the person convicted by the neck until dead.

Punishment of death by hanging.

SECT. 24. *And be it further enacted*, That where process shall have issued in any other of the United States, against any person for a crime alleged to have been committed in such state, and the person against whom the process issued, shall make his escape into this state, any justice of the peace in this state, on application made to him, and on sufficient proof that such process issued from lawful authority, shall issue his warrant directed to all proper officers in the county for which such justice is commissioned, or to any person by name, who shall be under oath to the faithful execution thereof, requiring the person or persons to whom the same warrant may be directed, to apprehend the said offender, if he may be found in such county, and the justice to whom the same warrant may be returned, may, if he shall think it proper on examination, send by warrant such offender to the line of this state, next to the state in which the original process issued, that he may be delivered to some proper officer there ready to receive him, and convey him to the place where the offence was committed; and the sheriffs of the respective counties in this state, and all other persons to whom the same precept may be directed, are hereby required to obey and execute the same.

Process having issued out of the state, how to proceed in this state to apprehend.

SECT. 25. *And be it further enacted*, That where any offender shall be apprehended in any neighbouring state, and it may be necessary to carry him through this state, in order that he may be conveyed to the place where the offence was committed, it shall be the duty of any justice of the peace in this state, on application made to him, and proof that lawful process hath issued against such offender, by warrant under his hand and seal, directed to the sheriffs in such counties through which it may be necessary to carry

Offenders may be carried through this state.

such offender, or to other proper officers in such counties, or to any other person by name, to cause such offender to be conveyed to the line of this state, next to the state where the offence was committed, there to be delivered to some proper officer ready to receive such offender; and the persons to whom such precept may be lawfully directed as aforesaid, are hereby required to obey and execute the same.

Sheriffs, &c.
of other gov-
ernments to
pass and re-
pass.

SECT. 26. *And be it further enacted*, That the sheriffs, deputy sheriffs, constables, or other officers of justice of any neighbouring government, with their assistants, in the execution of any lawful process, issuing from, or returnable to courts in their respective states, may, and shall have full liberty, power and authority to pass and repass, and also to convey such persons or things as they may have in their custody by virtue of any such lawful process as aforesaid, in or by any of the roads or ways lying in, or leading through any towns or lands in this state, in as full, free and ample a manner, as the officers of justice in this state do use and exercise in the discharge of their duty and office.

Persons insult-
ing punish-
ed.

And any person insulting, or obstructing such officer so passing through any part of this state, in such execution of their office as aforesaid, shall be liable to the same punishment as by law is inflicted on persons insulting similar officers of this state, in the execution of their offices in similar cases.

Escapes.

SECT. 27. *And be it further enacted*, That when any justice of the peace in any county in this state shall issue his warrant against any person for an offence committed in such county, and the offender escape into any other county in this state, any justice of the peace in any county where such offender may be found, on application made to him, and proof of such process having issued from lawful authority, shall issue his warrant directed to all proper officers of his county, requiring them to apprehend the said offender, and convey him to the line of the county where the offence is alleged to have been committed, if an adjoining county, and there deliver him to some proper officer; and if there be any county intervening, the same process may be repeated, until the offender be conveyed and delivered to some proper officer of the county where the offence is alleged to have been committed.

Justice thro'-
out the state,
his warrant to
run through
the state.

SECT. 23. *And be it further enacted*, That any justice throughout this state, may issue a warrant for apprehending any criminal offender in any county in this state, and the said warrant may be directed and shall be obeyed and executed by the persons to whom the same is directed, in the same manner as warrants issuing from the court of general sessions of the peace are, and ought to be directed, obeyed and executed.

SECT. 29. *And be it further enacted*, That when a certificate shall issue from the clerk of any judicial court, in

any other of the United States, certifying that there is a criminal cause pending in such court, and that a person or persons residing or inhabiting in this state, is supposed to be a material witness in such cause, either in behalf of such state, or the person accused, any justice of the peace in the county where such necessary witness resides, on application made to him shall on the back of such certificate, or paper annexed thereto, issue a summons requiring such witness to appear at the court where such cause is pending and testify; and if any person so summoned, and having tendered unto him, a sum equal to fourpence for every mile's travel, from the place of such witnesses abode, to the court where the trial may be, and six shillings at the end of every day for such witnesses attendance at the place of trial, and such witness having no reasonable excuse to the contrary, shall neglect to appear and attend such court and testify; every person so neglecting and refusing, shall forfeit and pay one hundred pounds to any person, though not an inhabitant of this state, who will sue for the same in this state.

Witnesses inhabiting in this state necessary in another state.

Passed February 3, 1791.

AN ACT for the punishment of certain crimes by solitary imprisonment and confinement to hard labour.

Passed June 19, 1812.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any person shall in the night time break and enter any dwelling house, with intent feloniously to kill, rob, steal, commit a rape, or perpetrate any other felony; or shall aid or assist therein; or shall be accessory thereto before the fact; such person shall be punished by solitary imprisonment for a term not exceeding six months, and by confinement to hard labour for life.

Burglary.

SECT. 2. *And be it further enacted,* That if any person, with intent to kill, rob, steal, commit a rape, or perpetrate any other felony, shall in the night time enter without breaking, or in the day time break and enter any dwelling house, or out house thereto adjoining, and occupied therewith, or any office, shop, store, ware-house, or ship or vessel lying within the body of a county, or shall be aiding or assisting therein, or be accessory thereto before the fact, such person shall be punished by confinement to hard labour for a term not less than one, nor more than five years.

Entering any building without breaking, with intent to commit felony.

SECT. 3. *And be it further enacted,* That if any person shall, by assault or any violence, and putting in fear, feloniously steal, rob and take from the person of another, any money, goods, chattels, or other property, which may be the subject of larceny, or shall aid or assist therein, or be accessory thereto before the fact, such person shall be punished by solitary imprisonment for a term not exceeding six months, and by confinement to hard labour for life.

Robbery.

Manslaughter.

SECT. 4. *And be it further enacted*, That if any person shall commit the crime of manslaughter, such person shall be punished by solitary imprisonment for a term not exceeding six months, and by confinement to hard labour for a term not less than one, nor more than five years, or by a fine not exceeding one thousand dollars, and imprisonment in the common gaol not exceeding three years, according to the aggravation of the offence.

Sodomy.

SECT. 5. *And be it further enacted*, That if any man shall commit the crime against nature with any man or male child, or if any man or woman shall have carnal copulation with a beast, such person shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour not less than one year, nor more than ten years.

Rape.

SECT. 6. *And be it further enacted*, That if any man shall ravish and carnally know any woman, committing carnal copulation with her by force, against her will; or if any man shall unlawfully and carnally know and abuse any woman child under the age of ten years, such person, on conviction, shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour for life.

Mayhem.

SECT. 7. *And be it further enacted*, That if any person shall of set purpose and malice aforethought unlawfully cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or lip, or cut off or disable any limb or member, of any person, with intention to maim or disfigure, or shall aid or assist therein, or be accessory thereto before the fact, such person so offending shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour for a term not less than one year, nor more than twenty years.

Assault with intent to commit murder, &c.

SECT. 8. *And be it further enacted*, That if any person, with intent to commit murder, rape, sodomy or robbery, shall make an assault on another, or aid or assist therein, or be accessory thereto before the fact, such person shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour not less than one year, nor more than five years.

Arson.

SECT. 9. *And be it further enacted*, That if any person shall wilfully and maliciously burn the dwelling-house of another, or any out-building adjoining thereto, or within the curtilage thereof, or any other building, by means whereof such dwelling-house shall be burnt, or shall aid or assist therein, or be accessory thereto before the fact, such person shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour for life.

Burning any publick building, store, ship, &c.

SECT. 10. *And be it further enacted*, That if any person shall wilfully and maliciously burn any meeting house, church, court-house, college, academy, school-house, or other publick building erected or designed for publick use, or any

ware-house, store, shop, mill, factory, barn, stable, ship or vessel, lying within the body of a county, or other building whatsoever of another, or shall aid or assist in doing the same, or be accessary thereto before the fact, such person shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour for a term not less than two years nor more than twenty years.

SECT. 11. *And be it further enacted,* That if any person shall wilfully and maliciously burn any stack of corn, hay, grain or flax, or any fence or pile of boards, lumber or wood, or any trees or underwood of another, or shall aid or assist therein, or procure the same to be done, such person shall be punished by confinement to hard labour not less than one, nor more than three years, or by fine not exceeding one thousand dollars, and imprisonment in the common gaol not exceeding one year, according to the aggravation of the offence.

Burning any stack of corn, fences, trees, &c.

SECT. 12. *And be it further enacted,* That if any person shall wilfully and maliciously kill, maim, wound or poison any horse, sheep, cattle or swine of another, with intent to injure the owner thereof, or shall aid or assist therein, or procure the same to be done, such person, so offending, shall be punished by confinement to hard labour not less than one year, nor more than three years, or by a fine not exceeding one thousand dollars, and by imprisonment in the common gaol not exceeding one year, according to the aggravation of the offence.

Killing and maiming cattle.

SECT. 13. *And be it further enacted,* That if any person shall falsely make, forge or counterfeit any note, certificate or other security, in imitation of, or purporting to be a note, certificate or other security which has been or may hereafter be issued for any debt of this state; or any bank bill or note, in imitation of, or purporting to be, a bank bill or note which has been, or may hereafter be issued by any corporation which is or may hereafter be lawfully established as a bank in this state, or in any place within the United States; or shall falsely alter any note, certificate or security which has been or may be hereafter so issued for any debt of this state, or any bank bill or note which has been or may hereafter be so issued by any corporation so established, or to be established as aforesaid, with intent to defraud this state, or any body politick, or any person or persons whomsoever, or shall aid or assist therein, or shall be accessary thereto before the fact, such person so offending shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour for a term not less than five years, nor more than twenty years.

Forgery

SECT. 14. *And be it further enacted,* That if any person shall utter, publish, pass or tender in payment as true, any such false, forged, counterfeited or altered note, certificate or security, or any such false, forged, counterfeited or

Passing forged notes, &c.

altered bank bill or note, knowing the same to be false, forged, counterfeited or altered as aforesaid, with intent to defraud this state or any body politick, or any person or persons whomsoever, or shall aid or assist therein, or be accessory thereto before the fact, such person so offending shall be punished by solitary imprisonment not exceeding three months, and by confinement to hard labour for a term not less than one year nor more than three years.

Bringing into this state, or having in possession forged notes, &c. with intent to pass them.

SECT. 15. *And be it further enacted,* That if any person shall knowingly bring into this state, or have in his possession or custody, any false, forged and counterfeited bill or note falsely made, forged and counterfeited in imitation and similitude of any bank bill or note issued by any corporation which is or may hereafter be lawfully established as a bank within this state, or in any place within the United States, with intent to utter, publish, pass or tender the same in payment as true, knowing the same to be false, forged and counterfeited, such person shall be punished by solitary imprisonment not exceeding two months, and by confinement to hard labour not less than one year, nor more than three years.

Making or having in possession plates, paper, &c. with intent to forge bank bills, &c.

SECT. 16. *And be it* further enacted,* That if any person shall engrave, form, make, mend, or begin to engrave, form, make or mend any plate, paper, rolling press or other instrument or material devised, adapted and designed for the stamping, forging or making any false, forged or counterfeit bank bills or notes in imitation of bills or notes which have been or shall be issued by any corporation lawfully established, or which shall be lawfully established in this state, or in any place within the United States, or shall have in his possession or custody any such plate engraven in any part, or any such paper, rolling press, or other instrument or material, devised, adapted or designed as aforesaid, with intent to use and employ the same, or cause or permit the same to be used and employed in forging and making any such false and counterfeit bank bills or notes, such person shall be punished by solitary imprisonment not exceeding two months, and by confinement to hard labour not less than one, nor more than three years.

Forgery of records, obligations, &c.

SECT. 17. *And be it further enacted,* That if any person shall falsely make, alter, forge or counterfeit, or procure to be falsely made, altered, forged or counterfeited, or aid and assist in falsely making, altering or counterfeiting any publick record or any writ process, or proceeding in any court of justice in this state; any certificate or attestation of a justice of peace, notary publick, clerk of any court, town clerk, or other publick officer, in any matter wherein such certificate or attestation, may be received as legal proof; any charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of exchange, promissory note, order, acquittance, discharge for or upon

* It omitted in the original.

the payment of money or delivery of goods ; or any acceptance of a bill of exchange, or any endorsement or assignment of a bill of exchange or promissory note ; any certificate or accountable receipt for money, goods or other thing ; or any warrant, order or request for the payment of money or delivery of goods or chattels, or for the delivery of any note, bill or other security for money or goods ; or any lottery ticket ; or any writing whatever, purporting to contain evidence of any debt, contract or promise, or of the discharge, payment or satisfaction of any debt, contract or promise, with intent to defraud any person or body politick ; or shall utter and publish as true, or procure to be uttered or published as true, any such false, forged, altered or counterfeited record, deed or other writings above mentioned, knowing the same to be false, forged, altered or counterfeited, with intent to defraud any person or body politick, or shall aid and assist in doing the same ; such person so offending shall be punished by solitary imprisonment not more than three months, and by confinement to hard labour for a term not less than one year, nor more than six years.

SECT. 18. *And be it further enacted,* That if any person shall forge and counterfeit any false coin in imitation and similitude of any gold or silver coin current within this state, by law or usage, or shall aid or assist in doing the same, or shall be accessory thereto before the fact ; such person shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labour for a term not less than five years, nor more than twenty years.

Counterfeit-
ing coin

SECT. 19. *And be it further enacted,* That if any person shall utter, pass or tender in payment as true any false, forged and counterfeit coin, made and forged in imitation and similitude of any gold or silver coin current within this state by law or usage, knowing the same to be false and counterfeit, with intent to defraud any person or body politick, or shall aid or assist in doing the same, or shall procure the same to be done, such person so offending shall be punished by solitary imprisonment not exceeding three months, and by confinement to hard labour not less than one, nor more than three years.

Passing counter-
feit coin.

SECT. 20. *And be it further enacted,* That if any person shall bring into this state, or knowingly have in his possession or custody any false and counterfeit coin made and forged in imitation and similitude of any gold or silver coin current within this state by law or usage, knowing the same to be false and counterfeit, with intent to utter and pass the same in payment as true, such person shall be punished by solitary imprisonment not exceeding two months, and by confinement to hard labour not less than one year, nor more than three years.

Having counter-
feit coin in
possession
with intent
to pass.

SECT. 21. *And be it further enacted,* That if any person shall cast, stamp, engrave, form, make or mend, or shall

Making or having in possession any tool for counterfeiting coin with intent to make false coin, begin to cast, stamp, engrave, form, make or mend, or shall knowingly have in his possession or custody any mould, pattern, dye, puncheon, press or other tool or instrument whatever, devised, adapted or designed for the forging or making of any false and counterfeit coin in imitation and similitude of any gold or silver coin current within this state by law or usage, with intent to use and employ the same, or to cause or permit the same to be used or employed in forging or making any such false and counterfeit money as aforesaid, such person shall be punished by solitary imprisonment not exceeding two months, and by confinement to hard labour not less than one, nor more than three years.

Perjury.

SECT. 22. *And be it further enacted,* That if any person shall knowingly and corruptly commit wilful perjury on his or her oath or affirmation in any suit, controversy, matter or cause pending in any court, or before any justice of the peace, referees or arbitrators, or in any deposition lawfully taken to be used in the hearing or trial of any cause or matter in this state or elsewhere, wherein an oath or affirmation is by law required to be administered, such person shall be punished by solitary imprisonment not more than two months, and by confinement to hard labour for a term not less than one year nor more than three years.

Subornation of perjury.

SECT. 23. *And be it further enacted,* That if any person shall procure another by rewards, promises or other sinister means, to commit wilful perjury in any of the cases or matters aforesaid, such person shall be punished by solitary imprisonment not less than two months, and by confinement to hard labour not less than one year, nor more than three years.

Indictment for perjury.

SECT. 24. *And be it further enacted,* That in prosecutions for perjury, it shall be sufficient to set forth the offence charged upon the defendant, and in what court or before whom the oath or affirmation was taken, averring such court or person or persons to have competent authority to administer the same, together with proper averments to falsify the matters wherein the perjury is assigned without setting forth the record or proceedings other than as aforesaid, and without setting forth the commission or authority of the court or person or persons before whom the perjury was committed.

This section repealed by act of Dec. 18, 1812, Sect. 5, p. 328.

SECT. 25. *“And be it further enacted,* That if any person shall feloniously steal, take and carry away, of the property of another, any money, goods or chattels, amounting in value to the sum of fifty dollars; or any charter, deed or other writing containing or importing the conveyance of land or other real estate, or containing or importing a defeazance, or release of title to any land or other real estate: or any will or testament, or any policy of insurance, bill of sale of any ship or vessel, or letter of attorney; or any writ pro-

cess or record of any of the courts of this state, or shall aid or assist therein; or if any person shall feloniously steal, take and carry away, of the property of another, any bond, promissory note, bill of exchange, order or other writing or obligation, containing evidence of any unsatisfied debt, amounting to fifty dollars, or containing evidence of any subsisting contract, covenant or promise to pay in money or goods any sum amounting to fifty dollars, or containing evidence of the discharge, payment or satisfaction of any such debt, contract, covenant or promise, or shall aid or assist therein, such person shall be deemed and taken to be guilty of larceny; and such person so offending and all accessories before the fact shall be punished by confinement to hard labour for a term not less than one year, nor more than three years."

SECT. 26. "*And be it further enacted*, That if any person shall feloniously steal, take and carry away, of the property of another, any money, goods or chattels, amounting in value to a less sum than fifty dollars; or any bond, promissory note, bill of exchange, order or other writing or obligation, containing evidence of any unsatisfied debt amounting to a less sum than fifty dollars, or containing evidence of any subsisting contract, covenant or promise to pay in money or goods any sum amounting to less than fifty dollars, or containing evidence of the payment, discharge or satisfaction of any such debt, contract, covenant or promise; or any writing containing evidence of a valuable subsisting contract, or shall aid or assist therein or procure the same to be done, such person shall be deemed and taken to be guilty of larceny, and shall be punished by imprisonment in the common gaol not exceeding one year and by fine not exceeding one hundred dollars." *Provided, nevertheless*, That if any person shall at one time feloniously steal, take and carry away of the property of another, divers such bonds, notes, bills, orders, writings or obligations, containing, together, evidence of any unsatisfied debt or debts, amounting in the whole to the sum of fifty dollars, or containing evidence of any subsisting contracts, covenants or promises to pay in money or goods, any sums amounting together to the sum of fifty dollars; or containing evidence of the payment, discharge or satisfaction of any such debts, covenants, contracts or promises, or shall aid or assist therein, or shall be accessory thereto before the fact, such person shall be punished according to the provisions of the next preceding section of this act, in like manner as if any one of such bonds, notes, bills, orders, or other writings or obligations had been of the amount and description mentioned in the said next preceding section.

This section repealed (except proviso) by act of Dec. 18, 1812, Section 5. p. 328.

Proviso.

SECT. 27. "*And be it further enacted*, That if any person in the night time, shall enter, without breaking, or in the day time shall break and enter any dwelling house, and

Larceny in a dwelling-house.

shall there commit larceny, or shall aid or assist therein, or be accessory thereto before the fact, such person shall be punished by confinement to hard labour for a term not less than two years, nor more than ten years.

Larceny in a shop, vessel, &c.

SECT. 28. *And be it further enacted*, That if any person in the night time shall enter any shop, ware-house, store or office, or any ship or vessel lying within the body of any county, and shall there commit larceny, or shall aid or assist therein, or be accessory thereto before the fact, such person shall be punished by confinement to hard labour for a term not less than one year, nor more than five years.

Larceny from the person.

SECT. 29. *And be it further enacted*, That if any person shall, either openly, or privily and fraudulently, commit any larceny from the person of another, or shall aid or assist therein, or be accessory thereto before the fact, such person so offending shall be punished by confinement to hard labour for a term not less than one year, nor more than five years.

Horse, cattle or sheep stealing.

SECT. 30. *And be it further enacted*, That if any person shall feloniously steal, take and carry away, of the property of another, any horse or horses, mule or mules, neat cattle or sheep, or shall aid or assist therein, or be accessory thereto before the fact, such person shall be punished by confinement to hard labour for a term not less than one year, nor more than five years.

Receiving or concealing stolen goods.

SECT. 31. *And be it further enacted*, That if any person shall receive or conceal any money, goods or chattels, or other articles, stolen as aforesaid, or shall aid or assist therein, knowing the same to have been so stolen in any such manner as aforesaid, such person shall be punished in the same manner and degree as such person would be, if he had so stolen such money, goods, chattels, or other articles.

Receivers prosecuted as for a misdemeanor.

SECT. 32. *And be it further enacted*, That any person charged with the receipt or concealment of money, goods, chattels or other articles stolen, knowing the same to have been stolen, may be prosecuted therefor as for a misdemeanor, although the principal felon chargeable or charged with the larceny, shall not have been prosecuted or convicted; but after trial for such misdemeanor, the person so tried shall not be prosecuted as an accessory after the fact in the same larceny.

Larceny, &c. after a conviction.

SECT. 33. *And be it further enacted*, That if any person who has been, or shall hereafter be convicted in any court in this state of a larceny, or of having received or concealed any money, goods or chattels, or other articles stolen, knowing the same to have been so stolen, shall after such conviction, commit any larceny, or receive or conceal any money, goods or chattels, or other articles stolen, or shall aid or assist therein, knowing the same to have been so stolen, such person, so offending, shall be pun-

ished by confinement to hard labour for a term not less than two years, nor more than ten years : *Provided*, That no conviction before a justice of the peace shall be considered a first conviction within the meaning of this act. Proviso

SECT. 34. *And be it further enacted*, That whenever any person shall be convicted of stealing any money, goods or chattels, or any bank-bill or note, bill of exchange, promissory note, or any draft or order for money, or of receiving or concealing any such money, goods or chattels, bank-bill or note, bill of exchange, or promissory note, or draft, or order for money, knowing the same to have been stolen, such convict shall be liable to pay the value of such money, goods, chattels, or other property to the owner or owners thereof, deducting the value of such parts thereof as may be returned or restored ; and the said owner or owners, upon such conviction, shall have judgment therefor against such convict, and may have execution thereon in common form ; and if any convict be committed to gaol by virtue of any writ of execution issued on such judgment, he shall have the same ease and relief as if said execution had issued on a judgment recovered in an action of trespass. Convict liable to pay the value of goods stolen or concealed

SECT. 35. *And be it further enacted*, That in every case of a conviction of larceny, or of receiving or concealing stolen money, goods or chattels, or other property, knowing the same to be stolen, or of making, uttering or passing counterfeit coin or bank-bills, the court before whom the conviction may be, shall have authority, at their discretion, to allow the prosecutor a meet recompense, not exceeding his actual expense, with a reasonable allowance for time and trouble, in such prosecution, to be paid out of the treasury of the county where the conviction is had ; but this provision shall not be construed to disqualify such prosecutor as a witness in such prosecution. Recompense to prosecutor

SECT. 36. *And be it further enacted*, That all persons charged with any larceny, or with being accessory thereto, or with concealing or receiving any money, goods or chattels, or other articles stolen, knowing the same to be so stolen, shall be tried for such offence in the superior court of judicature. *Provided*, nevertheless, That every justice of the peace in his county shall be authorized as heretofore, to hear and determine all complaints for stealing or receiving or concealing stolen money, goods or other articles in cases where the value of the property stolen, received or concealed, does not exceed the sum of six dollars and sixty-six cents ; and may punish such offender by fine not exceeding six dollars and sixty-six cents, or by imprisonment in the common gaol not exceeding thirty days, with costs of prosecution, subject however to an appeal to the superior court of judicature, and not elsewhere. This section repealed by act of Dec. 18. 1812. p 328.

SECT. 37. *And be it further enacted*, That whenever any person shall be indicted for any crime which may be

Privileges of persons indicted in certain cases.

punished by confinement to hard labour for life, such person shall have all the rights and privileges with respect to the manner of his trial which he would be entitled to if he were indicted for a crime of which the punishment is death.

Costs of prosecution.

SECT. 38. *And be it further enacted,* That whenever any person shall be convicted of any crime for which he shall be sentenced to solitary imprisonment or confinement to hard labour, judgment shall be rendered against such convict for costs of prosecution, and execution may thereupon issue against the goods, chattels or lands of such convict.

Solitary imprisonment may be inflicted at intervals if the case require.

SECT. 39. *And be it further enacted,* That whenever any convict shall be sentenced to solitary imprisonment for a certain term, and to confinement to hard labour, such convict shall undergo the full term of solitary imprisonment to which he shall be sentenced immediately after his commitment to the state prison, unless the directors of said prison shall be of opinion that the suffering the whole term of such solitary imprisonment at one time will endanger the life of such convict, in which case the said directors may order the same to be inflicted at such intervals as they shall deem proper, which order shall be obeyed by the warden of said prison.

Provision for crimes committed before the passing of this act.

SECT. 40. *And be it further enacted,* That if any person who shall hereafter be convicted of any crime committed before the passing of this act, which if committed after the passing of the same would come within the purview thereof, shall, in open court, where the conviction shall be had, request that sentence be pronounced according to the provisions of this act for the like offence, said court shall pass such sentence on such convict as they would have passed if the offence had been committed subsequent to the passing of this act, and prosecuted on this act.

Convicts shall be retained in county prisons until, &c.

SECT. 41. *And be it further enacted,* That should any criminal or criminals be sentenced to confinement in the state prison previous to its being sufficiently completed for their reception, the said criminals shall be retained in the respective county prisons where they may be convicted, till the state prison shall be ready for their reception.

Former acts repealed.

SECT. 42. *And be it further enacted,* That from and after the passing of this act, all acts and parts of acts heretofore passed, so far as they come within the purview of this act, be, and they hereby are repealed: *Provided,* That the same acts and parts of acts and every of them, shall be and remain in force for the cognizance, trial and punishment of all such crimes and offences as are therein mentioned, which have been committed before the passing of this act, and all proceedings thereon arising, this repeal notwithstanding. And this act shall take effect and be in force on the first day of July next.

When to take effect.

Approved June 19, 1812.

AN ACT in addition to an act, entitled, "*An act for the Punishment of certain Crimes by Solitary Imprisonment and confinement to hard labour,*" passed June nineteenth, one thousand eight hundred and twelve. Passed Dec. 18, 1812.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That if any person shall feloniously steal, take and carry away of the property of another, any money, goods or chattels, amounting in value to the sum of twenty dollars, or any charter, deed or other writing containing or importing the conveyance of land or other real estate, or containing or importing a defeazance or release of title to any land or other real estate, or any will or testament, or any policy of insurance, bill of sale of any ship or vessel, or letter of attorney, or any writ, process or record of any of the courts in this state, or shall aid or assist therein; and if any person shall feloniously take, steal and carry away of the property of another any bond, promissory note, bill of exchange, order or other writing or obligation containing evidence of any unsatisfied debts amounting to twenty dollars, or containing evidence of any subsisting contract, covenant or promise to pay in money or goods any sum amounting to twenty dollars, or containing evidence of the discharge, payment or satisfaction of any such debt, contract, covenant or promise, or shall aid or assist therein; such person shall be deemed and taken to be guilty of larceny, and such person so offending, and all accessories before the fact, shall be punished by confinement to hard labour for a term not less than one year, nor more than three years. Stealing to the amount of 20 dollars.
See act of 19 June, 1812.
Sect. 25.
p. 322.

SECT. 2. *And be it further enacted,* That if any person shall feloniously steal, take and carry away of the property of another, any money, goods or chattels amounting to a less sum in value than twenty dollars, or any bond, promissory note, bill of exchange, order or other writing or obligation containing evidence of any unsatisfied debt, amounting to a less sum than twenty dollars, or containing evidence of any subsisting contract, covenant, or promise to pay in money, goods or chattels any sum amounting to a less sum than twenty dollars, or containing evidence of the payment, discharge or satisfaction of any such debt, contract, covenant or promise, or any writing containing evidence of a valuable subsisting contract, or shall aid or assist therein or procure the same to be done, such person shall be deemed and taken to be guilty of larceny, and shall be punished by imprisonment in the common gaol not exceeding one year, nor less than three months; and by fine not exceeding fifty dollars for the use of the county where such offence shall have been committed. And such offender shall be further sentenced to pay treble the value of the goods or other articles stolen, to the owner thereof, and all the cost of prosecution. Stealing to an amount less than twenty dollars.
See act of 19 June, 1812,
Sect. 26
p. 323.
Treble damages & costs.

Offender may be sentenced to make satisfaction by service.

And any of the articles stolen being returned undamaged shall be accounted part, according to the value thereof; and if any such offender be unable to make restitution or pay such three fold damages, he may be enjoined and sentenced to make satisfaction by service; and the person to whom such satisfaction is to be made, is hereby empowered to dispose of the said convict in service for such term of time as shall be ordered and assigned by the court or justice before whom the conviction shall be.

Persons charged with larceny shall be tried before superior court.

Proviso.

SECT. 3. *And be it further enacted*, That all persons charged with any larceny or with being accessory thereto, or with concealing or receiving any money, goods or chattels or other articles, stolen, knowing the same to be so stolen, shall be tried for such offence in the superior court of judicature; *Provided, nevertheless*, That every justice of the peace in his county, shall be authorized, and is hereby authorized to hear and determine all complaints for stealing and receiving or concealing stolen money, goods or other articles in cases where the value of the property stolen, received or concealed does not exceed the sum of six dollars and sixty-six cents; and every justice of the peace in the county where such offence is committed, may punish such offender by fine not exceeding ten dollars for the use of the county where the offence shall have been committed, or by imprisonment in the common gaol not exceeding thirty days; and shall further sentence and order said offender to pay treble the value of the money, goods or other articles stolen, received or concealed as aforesaid to the owner thereof, and to pay all the costs of prosecution, subject however to an appeal to the superior court of judicature, and not elsewhere.

Offender appealing from the judgment of any justice must give bonds.

SECT. 4. *And be it further enacted*, That if any offender shall claim an appeal from the judgment of any justice of the peace in manner aforesaid, said justice shall thereupon order said offender to give bonds with sufficient sureties in a sum not less than fifty dollars to the state of New-Hampshire, the condition of which bond so given, shall be, that if said appellant shall enter and prosecute to final judgment his appeal in the court having appellate jurisdiction, such bond shall be of no effect, otherwise said bond shall be in full force.

Repealing clause.
p. 322, 325.

Proviso.

SECT. 5. *And be it further enacted*, That the twenty-fifth and twenty-sixth and thirty-sixth sections of the act to which this act is an addition, excepting the proviso in said twenty-sixth section, be, and hereby are repealed—*Provided*, That the same shall be and remain in force for the cognizance, trial and punishment of such crimes and offences as are therein mentioned, which have been committed before the passing of this act, and all proceedings thereon arising, this repeal notwithstanding.

Approved December 18, 1812.

AN ACT for the punishment of certain Crimes not capital. Passed Feb. 16, 1791.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That every person convicted of drunkenness shall be fined in a sum not exceeding ten shillings, nor less than five, to the use of the town or place where the offence is committed; and upon a second conviction for the like offence the fine shall be double, and upon a third conviction for the like offence the fine shall be treble, that is, in case of a second conviction the fine shall not be less than ten, nor more than twenty shillings, and in case of a third or any after conviction, not less than fifteen, nor more than thirty shillings; and in case the person convicted be unable to pay, or doth not immediately pay the fine imposed and cost of prosecution, he shall be set in the stocks, not exceeding three hours, or be committed to the common gaol, there to remain not more than three days. [Sept. 15, 1792.]
Drunkenness.

SECT. 2. *And be it further enacted,* That if any person of the age of fourteen years or upwards shall wittingly, willingly and maliciously make and publish a lie, or shall falsely and maliciously make and publish a libel tending to the defamation or damage of any person, or shall maliciously publish any such lie or libel, with intent to injure any person, the person so offending, shall on conviction be fined, not exceeding forty shillings, and the court or justice before whom such conviction may be, may order the person convicted to find sureties for good behaviour for a term not exceeding one year, and if the person convicted and sentenced as aforesaid, shall be unable to pay the fine inflicted and costs of prosecution, the court or justice before whom the conviction may be, may order the person convicted to be set in the stocks, not exceeding three hours. Lie or libel.

SECT. 3. *And be it further enacted,* That if any person shall steal any money, personal goods or chattels, or any record, writ, process or other proceeding in any of the courts in this state, or any paper that shall contain on it evidence of a debt, covenant, contract or promise, or that shall contain on it evidence of the payment or discharge of any debt, covenant, contract or promise, the persons so offending, their counsellors, aiders and abettors, knowing of and privy to the offences aforesaid, being thereof convicted, shall be fined not exceeding one hundred pounds, or whipped not exceeding thirty-nine stripes, and shall be further sentenced to pay treble the value of the goods or other articles stolen, to the owner thereof; any of the articles stolen being returned undamaged, to be accounted part according to the value thereof: and if such offender be unable to make restitution, or pay such three fold damages, he may be enjoined or sentenced to make satisfaction by service, and the person to whom Theft.
See act of 19 June, 1812, sect. 26, 27, &c. and act of 18 Dec. 1812, sect. 1, 2, &c.

such satisfaction is to be made, is hereby empowered to dispose of the said convict in service, for such term of time as shall be ordered and assigned by the court or justice before whom the conviction shall be.

Justice of the
peace to try
under 49s.

And every justice of the peace in the county where such offence is committed, is hereby authorized to hear and determine all offences for stealing or receiving stolen goods, provided the value of the property stolen, exceed not the sum of forty shillings, and may sentence any such offender to pay a fine not exceeding forty shillings, or to be whipped not exceeding ten stripes; and in case of inability to pay the three fold damages, to make satisfaction by service.

Receivers of
stolen goods.
See act of 19
June, 1812.
sect. 31, &c.

SECT. 4. *And be it further enacted*, That if any person shall receive or buy any goods or chattels, or other things taken and stolen from any other person, knowing the same to be stolen, or shall receive and harbour any thief or thieves, knowing him, her or them to be so, the person so offending being thereof convicted, shall be liable to the like punishment as in the case of larceny before mentioned and prescribed.

Perjury and
subornation
of perjury.

See act of 19
June 1812,
sect. 22, 23,
24.

SECT. 5. *And be it further enacted*, That if any person shall wilfully and corruptly commit perjury, or shall by any means procure any other person to commit wilful and corrupt perjury, or shall swear falsely on his or her oath or affirmation, in any suit, controversy, matter or cause depending in any of the courts in this state, or in his or her oath or affirmation administered by any person having lawful right to administer the same, in or concerning any matter or thing whatever, or in any deposition taken pursuant to the laws of this state, every person so offending and being thereof convicted, shall be imprisoned not exceeding one year, fined not exceeding one hundred pounds, and shall stand in the pillory one hour, and shall thereafter be rendered incapable to give testimony in any court, or before any justice of the peace in this state, so long as the said judgment is unreversed; and shall moreover be liable to pay all such damages as any person may have sustained, by reason of any such offence having been committed as aforesaid.

Endeavour-
ing to incite
a person to
commit per-
jury.

SECT. 6. *And be it further enacted*, That if any person shall wilfully and corruptly endeavour to incite another person to commit wilful and corrupt perjury as aforesaid, and the person so incited do not commit such perjury, the person so corruptly endeavouring to incite and procure the commission of wilful and corrupt perjury as aforesaid, being thereof convicted, shall be fined a sum not exceeding fifty pounds, or be imprisoned not exceeding six months, or both, according to the aggravation of the offence.

Fornication.

SECT. 7. *And be it further enacted*, That if any man shall commit fornication with any single woman, and be there-

of convicted, every person so offending shall be fined a sum not exceeding sixty shillings, and if unable to pay, may be whipped not exceeding ten stripes; provided always, that in this case the oath of the woman only shall not be considered as sufficient evidence to convict the man.

SECT. 8. *And be it further enacted*, That if any person or persons shall assault or beat any person or persons, or in any other way break the peace, such person or persons on conviction thereof, shall be fined at the discretion of the court or justice before whom the conviction shall be, in a sum not exceeding forty shillings, according to the aggravations of the offence.

Assault and battery

SECT. 9. *And be it further enacted*, That if any person shall on purpose, and of malice aforethought, unlawfully cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or a lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person, in any of the manners aforesaid; every person so offending, his counsellors, aiders and abettors, knowing of and privy to any of the offences aforesaid, shall, on conviction thereof, be imprisoned not exceeding seven years, and fined not exceeding three hundred pounds.

Mayhem.

See act of 15 June, 1812, sect. 7.

SECT. 10. *And be it further enacted*, That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any sheriff, or other officer of this state, in serving or attempting to serve or execute any mesne process or warrant, or any rule or order of any of the courts of this state, any legal order or command of any justice of the peace within this state, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer or other person, duly authorized in serving or executing any writ, rule, order, process or warrant as aforesaid, or if any person shall by force set at liberty or rescue any person arrested or committed by virtue of any mesne process, order, warrant, writ of execution, or any other writ issuing from any court of record, or any justice of the peace within this state, in any civil cause, or in any criminal cause not capital, every person so knowingly and wilfully offending, shall, upon conviction, be imprisoned not exceeding twelve months, and fined in a sum not exceeding ninety pounds.

Obstructing sheriff, &c. in the execution of his office

SECT. 11. *And be it further enacted*, That if any persons to the number of twelve or more, being armed with clubs or other weapons, or if any number of persons consisting of thirty or more, shall be unlawfully, riotously, tumultuously assembled, any justice of the peace, sheriff, deputy sheriff of the county, or constable of the town, shall, among the rioters, or as near to them as he can safely come, command silence while proclamation is making, and shall then proceed to make proclamation in these or the like

Riot, rout and unlawful assembly.

words—"By virtue of a law of this state, I am directed to charge and command, and do accordingly in the name of the state of New-Hampshire, charge and command all persons here assembled to disperse immediately and depart peaceably to their habitations or lawful employment."

And if any person or persons so unlawfully assembled, shall refuse or neglect to disperse and depart peaceably, but shall continue unlawfully, riotously, routously or tumultuously assembled, for the space of one hour after proclamation made as aforesaid, or if any person or persons shall wilfully and forcibly let or hinder any such officer, who shall be known, or shall openly declare himself to be such, from making the said proclamation, every person so offending shall on conviction, be punished by imprisonment, not exceeding one year, and by fine not exceeding three hundred pounds.

Blasphemy.

SECT. 12. *And be it further enacted*, That if any person shall openly deny the being of a God, or shall wilfully blaspheme the name of God, Jesus Christ, or the Holy Ghost, or shall curse or reproach the word of God, that is, the canonical scriptures contained in the books of the old and new testament, namely, Genesis, Exodus, Leviticus, Numbers, Deuteronomy, Joshua, Judges, Ruth, Samuel, Samuel, Kings, Kings, Chronicles, Chronicles, Ezra, Nehemiah, Esther, Job, Psalms, Proverbs, Ecclesiastes, the Song of Solomon, Isaiah, Jeremiah, Lamentations, Ezekiel, Daniel, Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, Zephaniah, Haggai, Zachariah, Malachi, Matthew, Mark, Luke, John, Acts, Romans, Corinthians, Corinthians, Galatians, Ephesians, Philipians, Colossians, Thessalonians, Thessalonians, Timothy, Timothy, Titus, Philemon, Hebrews, James, Peter, Peter, John, John, John, Jude, Revelations, every person so offending shall be punished by fine not exceeding fifty pounds, and may be bound to good behaviour for a term not exceeding one year.

Passed February 16, 1791.

Passed Dec.
18, 1792.

AN ACT in addition to an act, entitled, "An act for the punishment of certain Crimes not capital.

WHEREAS larcenies are frequent, and the guilty escape with little punishment, without making recompense; notwithstanding the laws now in force:

Therefore,

Stealers of
horses, &c. to
be marked.

See act of 19
June, 1812,
sect. 30.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened*, That whensoever any person, by due course of law, shall be hereafter convicted of stealing any horse or horses, mule or mules, neat cattle or sheep, every such person shall be marked with a line

of India-ink well and deeply inserted above the eye-brows, from the hair of the temples on the one side, to the hair of the temples on the other side of the forehead, and by a line in the same manner inserted from the centre of the line aforesaid to the end of the nose, on the most prominent part thereof, on the first conviction, and for stealing any other personal property, shall be marked in like manner on the second conviction. And every such person shall remain in custody not exceeding thirty days, till the said marks are well and effectually fixed, and shall be liable to be marked again, in case by any means he shall rub out or efface the same.

And the sheriff of each county shall make, or cause to be made, the marks aforesaid, as soon as conveniently may be after conviction, and shall receive therefor out of the county treasury where the conviction shall be, the sum of six shillings for marking each convict as aforesaid. And any person's having been before convicted of theft in any part of the United States of America, shall be deemed a first conviction within the intent of this act.

And any person to whom one convicted of stealing is put to service to make satisfaction, may in any manner, without cruelty, chain, or otherwise shackle or confine in the publick gaols or elsewhere, such convict in service, in such manner as may be necessary for his performing from day to day the task or labour enjoined on him.

Nevertheless if the cost and treble damages be paid, it shall be in the power of the court before whom the conviction shall be, to remit the punishment in this additional act provided; but the person so convicted shall be liable to the same punishment on the next conviction, which shall not be remitted.

Courts may remit this punishment.

SECT. 2. *And be it further enacted*, That where any person shall have been convicted and marked as aforesaid, in all, or any subsequent conviction, he shall receive the additional punishment of whipping, not exceeding one hundred stripes, and be set on the gallows, with a rope about his neck, not exceeding two hours. But no judgment before a justice of the peace on a charge of theft, shall be deemed a conviction, within the meaning of this act; nor shall any thing herein repeal any former act.

Additional punishment, on 2d conviction. See act of 19 June, 1812, sect. 33.

SECT. 3. *And be it further enacted*, That if any person convicted of stealing in any case, shall be unable to pay the cost and charges of bringing him to conviction, or shall escape, the same being unpaid, said costs and charges shall be paid out of the county treasury where such conviction shall be, at such reasonable rate as the court of general sessions of the peace shall order.

In certain cases the cost to be paid by the county.

Passed December 18, 1792

Passed Feb
10, 1791.
[Sept. 15,
1792.]

AN ACT for the punishment of profane Cursing and Swearing.

Profane
swearing.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any person shall profanely curse or swear, and shall be thereof convicted by confession, or other sufficient evidence, the person so offending shall pay a fine not exceeding eight shillings, nor less than one shilling for every profane curse or oath, according to the aggravations of the offence, the quality and circumstances of the offender in the judgment of the justice, or the court before whom the conviction may be; and in case the same offender shall after conviction offend a second time, the fine shall be double, and if a third time treble, and a like treble sum for every after conviction.

And if any person convicted of any such offence, be unable to pay the fine imposed upon him, and costs of prosecution, the justice before whom the conviction may be, may imprison the person convicted, not exceeding ten days, or order him to be set in the stocks, not exceeding one hour, or be whipped not exceeding ten stripes, either, but no more than one of these punishments at the election of the justice or court.

Record of
conviction.

SECT. 2. *And be it further enacted,* That a record of every such conviction shall be made in the following form.

State of } On the day of
New-Hampshire. } A. D. 17 A. B. of, &c. addition, was
R. ss. } convicted before me B. C. one of the
justices of the peace for said county of of uttering
..... profane oath (or of uttering profane curse)
and was ordered to pay a fine of therefor.

Attest, B. C. Justice Peace.

Limitation.

And all offences against this act shall be prosecuted within ten days after the offence committed and not afterwards.

Passed February 10, 1791.

Passed Dec.
28, 1798.

AN ACT against Gaming at Billiards.

BE it enacted by the senate and house of representatives, in general court convened, That any person or persons who shall at any time from and after the first day of February next, have or keep in his, her or their custody or possession, any billiard table, shall forfeit and pay the sum of ten dollars with costs of suit, and the like sum for every time, as often as any such billiard table shall be found in his, her or their possession, which forfeiture shall be recoverable by any person who shall first sue therefor, in a plea of debt, in any court proper to try the same, and the whole thereof shall be to the use of the person who shall recover upon any prosecution for the breach of this act. *Approved December 28, 1798.*

AN ACT for the punishment of lewdness, adultery and polygamy.

Passed Feb.
15, 1791.
[Sept. 15,
1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any man be found in bed with another man's wife, the man and woman so offending, or if any man and woman, either or both of whom are married, and not to each other, shall lewdly and lasciviously associate and cohabit together, or if any man or woman married or unmarried, shall be guilty of open gross lewdness and lascivious behaviour, the person or persons so offending, being thereof convicted before the justices of the superior court of judicature, shall be whipped, not exceeding thirty stripes, imprisoned not exceeding six months, fined not exceeding fifty pounds, bound to good behaviour for a term not exceeding three years; all or any of the foregoing punishments at the discretion of the court before whom the conviction shall be.

A man found in bed with another man's wife.

Lasciviousness.

Provided always, That the case first abovementioned of a man and woman being found in bed together, shall be construed to extend only to the person consenting thereto, and not to the person who was surprized in that situation, and who did not consent thereto.

Proviso.

SECT. 2. *And be it further enacted,* That any man or woman who shall commit adultery, and be thereof convicted before the superior court of judicature, shall be set on the gallows for the space of one hour, with a rope about his or her neck, and the other end thereof cast over the gallows, be publicly whipped not exceeding thirty-nine stripes, imprisoned not exceeding one year, be fined not exceeding one hundred pounds, bound to good behaviour for a term not exceeding five years, any or all the foregoing punishments in the discretion of the court before whom the conviction shall be.

Adultery

SECT. 3. *And be it further enacted,* That any person within this state, being married, who shall during coverture marry any other person, or who shall continue to live so married in this state, being thereof convicted, shall be set on the gallows for the space of one hour with a rope about his or her neck, and the other end thereof cast over the gallows, be publicly whipped not exceeding thirty-nine stripes, be imprisoned not exceeding one year, fined not exceeding one hundred pounds, be bound to good behaviour for a term not exceeding five years, all or any of the foregoing punishments in the discretion of the court trying the same.

Polygamy

Provided always, That nothing in the foregoing clause shall be construed to extend to any person whose husband or wife shall be absent for the space of three years together, and the person so absent hath not been heard of during that

Proviso

time, or to any person whose husband or wife shall be absent, and information shall be given and generally believed that the party so absent is dead.

Marriages
void.

SECT. 4. *And be it further enacted*, That all marriages where either of the parties at the time of entering into such marriage, shall be under coverture, shall be absolutely void.
Passed February 15, 1791.



Passed Feb.
17, 1791.
[Feb.1,1792.]

AN ACT to prevent Incestuous Marriages and to regulate Divorces.

Degrees of
kindred for-
bidden to in-
termarry.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That no man or woman shall intermarry within the degrees hereafter mentioned, that is to say,

No man shall marry his

Father's sister,
Mother's sister,
Father's widow,
Wife's mother,
Daughter,
Wife's daughter,
Son's widow,
Sister,
Son's daughter,
Daughter's daughter,
Son's son's widow,
Daughter's son's widow,
Brother's daughter,
Sister's daughter.

No woman shall marry her

Father's brother,
Mother's brother,
Mother's husband,
Husband's father,
Son,
Husband's son,
Daughter's husband,
Brother,
Son's son,
Daughter's son,
Son's daughter's husband,
Daughter's daughter's hus-
band's son, [band,
Sister's son.

Incestuous
marriages.

And if any man or woman within the degrees aforesaid shall intermarry, every such marriage shall be taken, deemed and adjudged to be incestuous, and the issue of such marriages shall be deemed illegitimate, and be subjected to all the legal disabilities of such issue.

And every man or woman within the degrees aforesaid, who shall hereafter marry, or carnally know each other, and who shall be thereof convicted before the superior court of judicature, shall be set on the gallows one hour with a rope about his or her neck, and the other end thereof cast over the gallows, fined a sum not exceeding one hundred pounds, imprisoned a term not exceeding one year, and bound to good behaviour for a term not exceeding five years, any or all of the foregoing punishments, in the discretion of the court, before whom the conviction shall be.

Causes of
divorce.

SECT. 2. *And be it further enacted*, That divorces from the bond of matrimony shall be decreed in case the parties are within the degrees aforesaid; or either of them had a former husband or wife alive at the time of solemnizing such second marriage, knowing them to be alive; or for im-

potency, for adultery in either of the parties, or where either of the parties shall be absent for the space of three years together, and shall not be heard of; or where the husband shall willingly absent himself from the wife, for the space of three years together, without making suitable provision for her support and maintenance, where it is in his power so to do.

And divorces may be granted for the cause of extreme cruelty in either of the parties.

And the justices of the superior court of judicature, may in all cases where a divorce is decreed, restore to the wife all or any part of her lands, tenements and hereditaments, and may assign to the wife such part of the real and personal estate of her late husband, as all circumstances duly considered, they may think just and reasonable, and they may use such process to carry their judgment into effect as may be necessary, and may compel the husband to disclose, on oath, what personal estate he hath received in right of his wife, and how the same hath been disposed of, and what proportion thereof remained in his hand, at the time of such divorce. Alimony.

SECT. 3. *Provided always, and be it further enacted,* That no such decree of divorce, or to dissolve the bonds of matrimony shall operate to affect the legitimacy of any issue, born or begotten in lawful matrimony, unless it shall be so expressed in such decree. Legitimacy of issue not affected by divorce.

Passed February 17, 1791.

AN ACT to prevent common Nuisances.

Passed Jan. 3, 1792.

WHEREAS slaughter houses for killing beasts and cattle, houses for trying tallow, or currying leather, by reason of offensive and ill stenchs proceeding from the same, are hurtful to the health, and dangerous to the neighbourhood in large and populous towns in this state; for remedy whereof:

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That where any slaughter house is already erected for killing of beasts in the compact part of any populous town in this state, the owner or occupier thereof shall at least three times in every week, from the last day of March to the last day of October, annually, remove and carry away, or cause to be removed and carried away from such slaughter house or out house or houses, or the appendages thereof, to some remote part of the town, all the entrails, garbage, filth and offals of such beasts as may have been killed there, and as often as need be, sufficiently wash and cleanse their said house or houses, used for killing of beasts, so as more effectually to prevent the stench and effluvia thereof from disturbing the Slaughter houses

peace, and endangering the health of any of the citizens of this state, on penalty of forfeiting the sum of thirty shillings for each week's neglect, to be recovered before any justice of the peace in the county where the offence may be committed; one moiety thereof to the person who shall complain or sue for the same, and the other moiety shall be for the benefit of the poor of the town where the offence is committed; and the proof of any dead beasts hanging up in any out house, or the laying in or carrying out the entrails, garbage or blood of any beasts shall be sufficient proof in law that such house is used for a slaughter house within the intent of this law.

No slaughter house to be erected without leave.

SECT. 2. *Be it further enacted, by the authority aforesaid,* That from and after the passing this act, no person shall erect or occupy in the compact part of any large and populous town in this state, any slaughter house, or house for trying of tallow, or for currying of leather, except such as are already used for such purposes, without leave, first had and obtained from the selectmen of such town, together with the approbation of two justices of the peace for said county, on penalty of forfeiting forty shillings a month for occupying any building in the aforesaid trades or mysteries, except as before excepted, without leave first had and obtained in writing, under their hands for said purposes.

Justices of the S. C. may prohibit the use thereof.

SECT. 3. *And be it further enacted,* That in case the regulations aforesaid, respecting the cleansing and preventing dangerous stench and effluvias arising from the use of the slaughter houses or other out houses that now are or that have been used in any populous town or towns in this state, should be found ineffectual to prevent the inconveniences thereof, on sufficient proof of which, it shall and may be lawful for the justices of the superior court of this state to take cognizance thereof, and issue order to the owner and occupier of any or all such slaughter houses or other buildings used for killing of beasts as aforesaid, and thereby forever prohibit such use thereof; and if such owner or occupier should refuse to obey such order, and persist in killing beasts as aforesaid, it shall and may be lawful for said justices of said court to issue their precept to the sheriff or his deputy of any county where such offence shall have been committed and continued, directing him to take down and remove such building used as aforesaid, and to sell immediately at auction, so much of the materials thereof as will pay him reasonably for executing said precept, and all costs of taking down and removing the same.

Duty of carriers, &c.

SECT. 4. *And be it further enacted, by the authority aforesaid,* That henceforth no cart, trucks, sled or dray, drawn by either horse or horses, horse and oxen, or oxen only, shall be suffered to pass through any of the streets or lanes in the compact part of the town of Portsmouth without a sufficient driver,

who shall, during such passage, keep with his cart, trucks, sled or dray, and carefully attend and observe such methods as may best serve to keep their horses or oxen under command, and shall have the thill horse by the bridle or halter; and whatsoever carter or other person undertaking to drive any cart, trucks, sled or dray as shall neglect to observe the rules aforesaid, such carter, driver, or the owner of such team so offending, shall forfeit and pay the sum of six shillings for each offence, to be recovered in the same way and manner as is herein before directed for other nuisances.

SECT. 5. *And be it further enacted, by the authority aforesaid,* That no person shall ride through any of the streets or lanes in the compact part of any populous town in this state on a gallop, or any swifter pace than at the rate of five miles an hour, on penalty of forfeiting the sum of six shillings for each offence, to be recovered in the same manner as before directed in this act for other nuisances. Riding.

SECT. 6. *And be it further enacted,* That no person shall hereafter erect or set up any house of office or easement, or lay or leave any dead beast or carrion within the compact part of any populous town in this state, or suffer the same to continue, being already standing or set up within forty feet of any street, lane or highway, or the dwelling house, shop or well of any neighbour, except on wharves or banks of the river, unless the same be vaulted six feet deep and sufficiently secured and enclosed, on penalty* of forfeiting the sum of twenty shillings for every transgression of this law, and the like sum of twenty shillings for every three months the said nuisance shall continue after the first conviction; nor shall any person in said Portsmouth erect or keep any pen or sty for swine so near the streets or lanes, or their neighbour's dwelling, as to become a nuisance, in the judgment of the surveyor or surveyors of the highways, or three at least of the selectmen of said town for the time being, who are hereby empowered and directed to remove the same, or order it to be removed at the expense of the owner, and shall recover double cost in any court proper to try the cause. Sundry nuisances prohibited.

Passed January 3, 1792.

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AN ACT to prevent persons from digging up the Bodies of Dead People. Passed June 22, 1810.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That if any person or persons, shall enter any church yard, or any publick or private burying place, or any place where persons are buried in this state, and there dig up, or attempt to dig up Penalty for digging up dead bodies.

*Penalty of omitted in the original.

or carry away any human body, or the remains thereof, or shall directly or indirectly be aiding or assisting therein, shall, for every such offence, on conviction thereof before the justices of the superior court, be fined a sum not exceeding two thousand dollars, be publickly whipped not exceeding thirty-nine stripes, or be imprisoned not exceeding two years, one or all the foregoing punishments, as the court before whom the conviction may be, considering the nature and aggravation of the offence, may order.

SECT. 2. *And be it further enacted,* That if the body of any deceased person, which may hereafter be dug up, or carried away from any church yard or any other publick or private burying place whatever, in this state, or which may hereafter be dug up, or carried away from any church yard or publick or private burying place in any other state of the United States, which may have laws in force prohibiting the digging up and carrying away of human bodies from such church yards or burying places, shall be found deposited in any house, out house, or in any room or apartment of any building erected, or which may hereafter be erected in this state, either for publick or private use, the person or persons occupying or using such dwelling house, out house, room or apartment of such building where such body may be found deposited, knowing such body to be there deposited, shall, on conviction thereof before the court aforesaid, be fined a sum not exceeding two thousand dollars, be publickly whipped not exceeding thirty-nine stripes, or be imprisoned not exceeding two years, as the said court may in their discretion order. *Provided,* nevertheless, That this act shall not extend to any person or persons who may have a license from any justice of the peace in the county where such person is buried, authorizing him or them to dig up such dead body, when complaints are made, and suspicions are entertained, that the deceased came to his or her death by some unlawful mean; or to any relation or friend of the deceased wishing to remove the said body to some other ground; or to any person or persons taking up the body of any criminal, or having the body of a criminal in the dwelling house, out house, room or apartment of any building erected or which may be erected; either for publick or private use, by him or them occupied or used, he or they having purchased the said body of said criminal for the purpose of dissection, having a certificate therefor from a justice of the peace in such county: nor shall this act be construed to extend to prohibit any town or place in this state from removing the dead from one burying ground or place to another where provision therefor is made by vote of said town or place.

SECT. 3. *And be it further enacted,* That all fines arising by this act shall belong, one moiety thereof to the use and benefit of the prosecutor, and the other moiety there-

Bodies found deposited in any house, &c.

Occupant to incur penalty,

except he have license,

or vote of the town.

Fines, how appropriated.

of to the use of the county wherein such prosecution may be had.

SECT. 4. *And be it further enacted, That an act, en-* Repealing
clause.
titled, "An act to prevent persons from digging up the
bodies of dead people," passed by the legislature of this
state and approved June 16, 1796, be, and the same is here-
by repealed—*Provided, nevertheless, That no prosecution* Proviso.
or indictment commenced or pending, under and by virtue
of said act, shall be affected by the repeal thereof.

Approved June 22, 1810.

AN ACT providing for the Compensation of certain Passed Jan.
9, 1795.
persons employed in apprehending and bringing to
justice offenders against the laws of this state.

BE it enacted by the senate and house of represen-
tatives, in general court convened, That whenever an
account shall be exhibited to the superior court of judica-
ture, or to either of the courts of common pleas in this state,
against a county for services done under the direction of ei-
ther of the courts aforesaid, the attorney general, one of
the solicitors, or any justice of the peace, in apprehending
and bringing to justice any offender charged with any felo-
ny, or high handed misdemeanor against the laws of this
state, and no provision shall have been made for the pay-
ment thereof; the courts aforesaid respectively shall have
power to examine the same, and allow so much thereof, as
they may deem equitable, and for the sum so allowed, the
chief or first justice of the respective courts aforesaid, shall
give order on the county treasurer, who is hereby author-
ized and directed to pay the same.

See act of 19
June, 1812,
sect. 35.

Approved January 9, 1795.

AN ACT directing the Proceedings in Case of Forci- Passed Feb.
16, 1791.
[Sept. 15,
1792.]
ble Entry or Detainer of Lands or Tenements.

SECT. 1. **B**E it enacted by the senate and house of rep-
resentatives, in general court convened, That two justi-
ces of the peace, *quorum unus*, shall have authority to
inquire by a jury, of any forcible and unlawful entry into
lands or tenements, or forcible detaining the same, and al-
so of any forcible and unlawful detaining and holding any
lands and tenements where the entry was lawful; and such
forcible entry and detainer, or forcible detainer being found
by the verdict of the jury, the said justices may fine the
party guilty of such forcible entry or detainer, to the use
of the county, in a sum not exceeding four pounds, and
shall and may award restitution of the premises so forcibly
entered upon or detained, without any inquiry into the mer-
its of the title of either party.

Two justices
to try causes
of forcible
entry and de-
tainer.

Mode of pro-
cess.

SECT. 2. *And be it further enacted,* That when any complaint shall be made in writing to any two justices of the peace, *quorum unus*, of any such unlawful and forcible entry or detainer, they shall issue a warrant in this act prescribed, directed to the sheriff of the same county or his deputy, commanding him to apprehend the person against whom such complaint shall be made, and to bring him before the said justices at a day in such warrant named, and at a place therein mentioned ; and they shall also issue a precept to the said sheriff or his deputy, commanding him to cause to come before them, twelve men having the qualifications by law required of petit jurors serving at the superior court, at a certain time and place in such precept to be mentioned, and at the said time and place appointed for trial or hearing the said complaint, if a sufficient number of jurors summoned by the sheriff do not attend, the said justices may order the sheriff to complete the number by returning others forthwith ; and the jury being empannelled, shall be sworn, well and truly to try the forcible entry or the forcible detainer complained of, according to their evidence, and to return a true verdict thereof ; and if the jury after a full hearing find the person against whom the complaint is made, guilty of the forcible entry or detainer complained of, they shall all sign their verdict, and the said justices shall enter up judgment for the complainant to have restitution of the premises, and shall impose such fine, not exceeding four pounds, as they, considering all the circumstances may think just, and shall tax cost for the complainant, and may commit the person against whom the judgment is so made, until the fine be paid, and the said justices shall also award their writ of restitution in the form in this act prescribed ; and there shall be no appeal from the judgment of the said justices ; but if the jury find that the person complained against is not guilty, the complaint in their opinion not being supported, the said justices shall tax cost for the said person complained against, and shall issue execution accordingly.

SECT. 3. *And be it further enacted,* That if the sheriff or his deputy cannot find the party against whom the said warrant issued, he may four days before the time appointed for returning the same, leave an attested copy of said warrant at the usual place of the abode of such person, and if at the return of his warrant he shall not have been able to find or apprehend the person against whom the same warrant issued, he shall make return of such facts, and that he hath so left an attested copy, and when the same was done ; and if the said party doth not appear at the time appointed for hearing the said complaint, the said justices may proceed to the hearing in the same manner as though such absent party was present, except that they shall not in this case inflict any fine upon him, and in all cases they may

in their writ of restitution order the cost taxed, to be levied: but in every such case, if the jury do not find for the complainant there shall be no cost taxed for the party complained against, he not having appeared at the empanneling of the jury.

SECT. 4. *And be it further enacted, That the proceedings before the said justices may be removed by certiorari* Certiorari
unto the superior court to be holden in the same county,
and if irregular, may be there quashed.

SECT. 5. *And be it further enacted,* That any judgment of the said two justices shall not be a bar to any after action brought by either party.

SECT. 6. *And be it further enacted,* That this act shall not extend to any person who hath had the occupation, or been in the quiet possession of any lands or tenements by the space of three whole years together, next before, and whose estate therein is not ended or determined.

SECT. 7. *And be it further enacted,* That each juror shall be allowed the same for his travel, as is allowed to jurors for travel, at the superior court, and two shillings for the verdict, to be paid by the complainant.

The justices shall have six shillings each for the trial, two pence per mile for the travel out and in, and the parties, witnesses and sheriff shall be allowed for the service of the warrants, summonses, travel and attendance, the same as in other cases.

SECT. 8. *And be it further enacted,* That the warrant ^{Forms of} for apprehending the party complained against, the precept ^{process.} to the sheriff for returning jurors, the oath to be administered to the jurors, their verdict, and the writ of restitution shall be made out, issued, administered and drawn up in the forms following, namely,

THE WARRANT.

State of New-Hampshire, } To the sheriff of said county of
ss. } or his deputy, Warrant.
Greeting.

Whereas A. B. of, &c. *addition* hath exhibited unto us E. F. and G. H. justices of the peace in and for the county of aforesaid, *unus quorum*, a complaint against C. D. of, &c. *addition* setting forth that (*here the substance of the complaint shall be inserted*) Therefore we command you in the name of the State of New-Hampshire, to apprehend the said C. D. (if he may be found within your precinct) and bring him before us at on the day of at of the clock in the noon, then and there to make answer to, and defend against the complaint aforesaid, and further to be dealt with according to law ; but if

A. B.'s complaint not being fully proved, the said C. D. is not guilty.

.....	FOREMAN.
.....	} JURORS.
.....	
.....	
.....	
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WRIT OF RESTITUTION.

*****	SS. STATE OF NEW HAMPSHIRE.	
* L. S. *	To the sheriff of the county of aforesaid,	Writ of res-
*****	or his deputy,	titution.
	Greeting.	

Whereas A. B. of (*addition*) at a court of inquiry of forcible entry and detainer, holden at in our said county of upon the day of in the year of our Lord before E. F. and G. H. two justices of the peace for our said county of *quorum unus*, by the consideration of said justices recovered judgment against C. D. of *addition* to have restitution of (*here describe the premises as in the complaint.*) We therefore command you, that taking with you the force of the county, if necessary, you cause the said C. D. to be immediately removed from the premises, and the said A. B. to have peaceable restitution of the same: we also command you, that of the goods, chattels, or lands of the said C. D. within your precinct, you cause to be paid and satisfied unto the said A. B. at the value thereof in money, the sum of being the cost taxed against the said C. D. for the said A. B. at the court aforesaid, together with one shilling and four pence more for this writ, and thereof also to satisfy yourself for your own fees, and for want of goods, chattels or lands of the said C. D. to be by him shewn unto you, or found within your precinct, to the acceptance of the said A. B. to satisfy the sums aforesaid; we command you to take the body of the said C. D. and him commit to either of the gaols in our said county of and detain in your custody, within said gaol, until he pay the full sums aforesaid, with your fees, or until he be discharged by the said A. B. or otherwise by order of law. Hereof fail not, and make return of this writ with your doings therein, unto our said justices within twenty days next from the date hereof. Witness E. F. and G. H. aforesaid, at the day of Anno Domini,

Passed February 16, 1791.

Passed Dec. 24, 1799. *AN ACT for the better observation of the Lord's day, and for repealing all the laws heretofore made for that purpose.*

Labour and recreation forbidden.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That no tradesman, artificer or any other person whatsoever shall do, or exercise any labour, business or work of their secular callings, works of necessity and mercy only excepted, nor use any game, play or recreation on the first day of the week, commonly called the Lord's day, or any part thereof, upon pain that every person so offending shall forfeit a sum not exceeding six dollars, nor less than one.*

Travelling prohibited.

SECT. 2. *And be it further enacted, That no person shall travel on the Lord's day between sun-rising and sun-setting, unless from necessity, or to attend publick worship, visit the sick, or do some office of charity, on penalty of a sum not exceeding six dollars, nor less than one.*

Keepers of publick houses not to entertain inhabitants.

SECT. 3. *And be it further enacted, That no taverner, retailer or other person keeping a publick house of entertainment shall suffer any of the inhabitants of the respective towns where they dwell, or others, not being strangers, or lodgers in such houses, to abide or remain in the houses, yards or appendages thereof, drinking or idly spending their time on the Lord's day, upon the pain and penalty aforesaid. And the person or persons who shall be found so drinking or abiding in such house, or dependencies thereof as aforesaid, shall each suffer the like penalty.*

Tythingmen.

SECT. 4. *And be it further enacted, That each town and district within this state, shall, at the time of choosing town or district officers, annually and every year, choose by ballot certain persons, being of good substance and sober life, to be tythingmen of such town or district, of which officers no town or district shall appoint less than two, whose duty it shall be to inform of all breaches of this act.*

Rudeness, &c. at places of publick worship.

SECT. 5. *And be it further enacted, That if any person shall, on the Lord's day, within the walls of any house of publick worship, or about such house, whether in the time of publick service or between the forenoon and afternoon services of said day, or on any part thereof, behave rudely or indecently, he or she shall pay a fine not exceeding six dollars, nor less than fifty cents.*

Evidence.

SECT. 6. *And be it further enacted, That the oath of any tythingman or selectman shall be deemed full and sufficient evidence, upon trial of any offence against this act, unless in the judgment of the court, or justice, the same shall be invalidated by other evidence that may be produced.*

Parents, &c. liable.

SECT. 7. *And be it further enacted, That the parents of any children under age, the guardians of any minors, and the masters of servants, who shall have no parents or guar-*

dians shall be respectively liable for the fines and costs of their children, wards or servants, who shall be convicted of any offence against this act. And the said fines and costs may be levied by warrant of distress issued against the parent, guardian or master, as the case may be, according to the form herein after prescribed. *Provided, always,* that such parent, guardian or master, shall be duly notified of the time and place appointed for the trial of such children, minors or servants for the offences aforesaid.

SECT. 8. *And be it further enacted,* That it shall be lawful for each and every selectman and tythingman within their respective precincts, to take and command such assistance as may be needed, and forcibly to stop and detain any person or persons they shall suspect of travelling unnecessarily on said day, for and during such time, as shall be necessary for demanding the cause or reason of such person's travelling, his name, and place of abode, and receiving the answer to such demands. And in case any such person shall not give satisfaction to the selectman or tythingman, demanding the same, that there is sufficient reason for his travelling, such selectman or tythingman shall have full power and authority to detain in his custody such person or persons, until a regular trial can be had, and to command the necessary aid therefor.

Power of tythingmen, &c

SECT. 9. *And be it further enacted,* That if any person shall refuse to give aid and assistance to any selectman or tythingman, who may require the same for the purposes aforesaid, such person so refusing, shall, upon conviction thereof, be fined in a sum not exceeding six dollars, nor less than one.

Fine for not giving aid.

SECT. 10. *And be it further enacted,* That if any person found travelling upon the Lord's day, shall give any false answer to any of the before mentioned questions, which may be asked him by any selectman or tythingman, the said person shall upon conviction thereof, be fined in a sum not exceeding thirteen dollars, nor less than one.

Fine for giving false answers.

SECT. 11. *And be it further enacted,* That the selectmen of the several towns and places in this state, and the tythingmen chosen as aforesaid, be, and they hereby are required to inform of all breaches of this act within their precincts. And if any person charged with a breach of this act, shall be acquitted upon trial, he shall recover costs against the complainant, unless the complainant be a selectman or tythingman, and in that case no costs shall be allowed to the person acquitted. And for the better execution of all and every of the foregoing orders, every justice of the peace, within the county where any offence against this act shall be committed, shall have power and authority to convene before him any person or persons offending as aforesaid, and upon his own view, or other evidence sufficient to convict any person of such offence, to impose the fine and pen-

Duty of selectmen and tythingmen.

alty for the same with costs, and to restrain and commit the offender until the same be satisfied, or to cause such fine, penalty and costs to be levied by distress and sale of the offender's goods, returning the overplus, if any be. All fines and penalties accruing by this act, to be for the benefit and relief of the poor of such town or place where the offence is committed, and delivered into the hands of the selectmen or overseers of the poor for that purpose.

Appeal.

See act of 22
June, 1814.

SECT. 12. *And be it further enacted*, That any person shall have the right of appeal to the court of common pleas from any sentence of a justice given against him or her in pursuance of this act, he or she recognizing with sufficient sureties to prosecute his or her appeal with effect. *Provided, nevertheless*, That it shall and may be lawful for any justice of the peace, on application to grant a license for any person to travel, or do any secular business on said day, which shall appear to him to be a work of necessity or mercy. And such certificate shall be a bar to any prosecution therefor. And the informing officers aforesaid shall have a right to inquire of any person apparently offending against this act the cause or necessity of his so doing, and if he or she shall neglect or refuse to assign such reason or reasons as may appear on trial to be sufficient, or shew such certificate, he or she shall pay costs of prosecution, any other reason he or she shall give on trial notwithstanding.

Limitation.

SECT. 13. *And be it further enacted*, That all prosecutions for offences against this act shall be commenced within thirty days after the offence shall have been committed and not afterward.

SECT. 14. *And be it further enacted*, That the warrant of distress before mentioned may be in the form following:

STATE OF NEW-HAMPSHIRE.

R..... ss.

Warrant of
distress.

* Seal. *

*To the sheriff of the said county of R.....
or his Deputy, or any constable of in said
County,*

Greeting.

Whereas O. F. an infant under the age of twenty-one years, on the day of at in said county of R..... before the subscriber one of the justices assigned to keep the peace within and for said county, was duly convicted of [here describe the offence as it is described in the complaint or conviction] which offence was committed contrary to the form of an act, entitled, "an act for the better observation of the Lord's day, and for repealing all the laws heretofore made for that purpose;" and for said offence the said O. F. was ordered to pay a fine of and costs of prosecution, amounting in the whole to the sum of and whereas A. B. of &c. (addition) at the time of the conviction aforesaid was

[parent, guardian or master as the case may be] of the said O. F. and by law liable for the said fine and costs, and hath been duly notified of said conviction, and the same fine and costs still remaining unpaid—these are therefore in the name of the State of New-Hampshire to command you to levy the said sum of by distress and sale of the goods and chattels of the said A. B. found within your precinct, and the same sum when levied to pay to the subscriber, to be disposed of according to law. And for want of such goods or chattels of the said A. B. to take the body of the said A. B. and him commit unto the gaol in and the keeper of said gaol is hereby commanded to receive the said A. B. into his custody, and him detain in said gaol until he pay the aforesaid sum of with fifty cents more for this warrant, together with all fees, or until he be discharged by order of law.—Hereof fail not and make due return of this warrant, with your doings therein, unto the subscriber, within sixty days next coming.

Given under my hand and seal at in said county the day of A. D.

J. P.

SECT. 15. *And be it further enacted*, That the said warrant of distress shall be served and executed in the same way and manner as executions against the body and personal estate are by law to be served and executed, and the officer serving the same shall be entitled to demand the same fees as he may lawfully demand for the service of such executions and no more. Service of warrant.

SECT. 16. *And be it further enacted*, That all the laws heretofore made in this state for the better observation of the Lord's day, be, and they hereby are repealed. *Provided, nevertheless*, That this act shall not be in force until the first day of March next. Repealing clause.

And it is hereby recommended to the ministers of the gospel to read this act publicly in their congregations annually, on the Lord's day next after the choice of town officers. Recommendation.

Approved December 24, 1799.

AN ACT in addition to an act, entitled, "An act for the better observation of the Lord's Day, and for Repealing all the Laws heretofore made for that purpose." Passed June 22, 1814.

WHEREAS justices of the peace within this state have, under a misapprehension of the law, given permission to travel on the Lord's day, contrary to the true spirit of the act to which this is in addition; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, no license or permission granted by any justice of the peace shall be available in law to any person No license to avail teamsters or drovers.

or persons found travelling within this state on the first day of the week, commonly called the Lord's day, in the stile and capacity of a teamster, or carrier, with any team or carriage of burthen, or to any person or persons found travelling on said day in the stile and capacity of a drover, with any horses, cattle, or other beasts : but all such licenses or permissions, so granted as aforesaid, by any justice of the peace, to any such teamster, carrier, or drover, shall be utterly null and void ; any law, usage, or custom to the contrary notwithstanding.

Approved June 22, 1814.

Passed Feb.
15, 1791.
[Sept. 15,
1792.]

AN ACT Regulating Marriages, and for the Registering of Marriages, Births and Burials.

Ministers or
justices may
join persons
in marriage.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That every ordained minister of the gospel, in the county where he is settled, or hath his permanent residence, and in no other place, and every justice of the peace, in the county for which he is commissioned, and in no other place, whatsoever, shall be, and hereby are authorized and empowered to solemnize marriages, between persons who may lawfully enter into that relation.

Persons to be
published be-
fore mar-
riage.

SECT. 2. *And be it further enacted,* That all persons desiring to be joined in marriage, shall have such their desire or intention published at three several publick meeting days, or three sabbath days, in the respective towns or places where the parties so desiring to be joined in marriage dwell or reside, by the clerks of such towns or places ; and the persons desiring to be joined in marriage, shall produce to the justice or minister who shall be desired to marry them, a certificate of such publishment under the hand of the clerk or clerks so publishing them, and in case either of the parties desiring to be married, live in a town or place where there shall be no clerk, then publishment shall be made in the town or place next adjoining, in manner as aforesaid.

Penalty for
marrying
without pub-
lishment.

SECT. 3. *And be it further enacted,* That if any justice of the peace or minister shall join any persons in marriage without a certificate as aforesaid ; or shall otherwise than is expressly allowed by this act, join any persons in marriage, they shall severally forfeit and pay the sum of twenty pounds, to the use of any parent, master, guardian, or next friend to either of the parties so married, who may sue therefor in any court proper to try the same.

Penalty for
any persons
except minis-
ters and jus-
tices joining

And if any person not authorized and empowered to solemnize marriages by this act, shall join any persons in marriage, whether with or without publishment, and be convicted thereof in the superior court of judicature, upon in-

dictment, he shall be subjected to pay a fine at the discretion of the court to the use of the county where the offence may be committed; the fine not to exceed one hundred pounds, nor be less than thirty.

SECT. 4. *And be it further enacted*, That every justice of the peace, minister of the gospel, and clerk of the people called Friends or Quakers, shall make and keep a particular record of all marriages solemnized before them respectively, and shall in the month of March every year, make a return to the clerk of the town or place where such minister, justice or clerk of the society of the people called quakers lives, of the names (both christian and sur names) of all persons who have been by, or before them respectively joined in marriage, within the year last past, and the places of their abodes, and the time when they were joined together in marriage.

Record of marriages.

SECT. 5. *And be it further enacted*, That the persons joined in marriage by any minister or justice, shall pay therefor to the said minister or justice the sum of six shillings.

Fee.

SECT. 6. *And be it further enacted*, That the clerk of every town or place shall record in the book of records, belonging to such town or place, all certificates of marriages returned to him as aforesaid, and the said minister, justice or clerk of the society of the people called quakers, shall pay the said town clerk for every marriage by them respectively returned or certified, four pence as a fee for recording the same.

Town clerks to record marriages.

SECT. 7. *And be it further enacted*, That the clerk of every town and place in this state, shall record births and burials, and all persons concerned, are to give notice of such births and burials to the clerk, within one month, and pay two pence for every birth or burial by the said clerk recorded.

Births and burials.

SECT. 8. *And be it further enacted*, That nothing in this act shall be construed to affect the right of the people called quakers, to solemnize marriages in the way and manner usually practised in their meetings; but all such marriages so solemnized shall be good and valid in law, any thing in this act to the contrary notwithstanding.

Marriages among Quakers.

SECT. 9. *And be it further enacted*, That any minister, justice or clerk of any society of the people called quakers, who shall neglect to make the return of the marriages by or before them solemnized, as before mentioned, to the town clerk, shall for every neglect, severally forfeit and pay to any person who will sue for the same, the sum of forty shillings; and if any parent shall neglect, for one year after the birth of any child, to make return to the clerk of the town or place, in which such child is born, of the time of the birth of such child, the person so neglecting shall forfeit and pay to the person suing for the same, the sum of twenty shillings.

Penalty for neglecting to make return to town clerk

Passed February 15, 1791.

AN ACT for the Maintenance of Bastard Children.

Passed Feb.
11, 1791.
[Sept. 15,
1792.]

Complaint.

Trial.

Judgment.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That when any woman shall be pregnant with a child, which if born alive, may be a bastard, and such woman shall, previous to her delivery, on oath, before a justice of the peace, voluntarily charge any man with being the father thereof, and shall also declare as near as may be the time when, and place where it was begotten, and shall continue constant in such accusation, and shall in the time of her travail declare the same person to be the father of such child, to the midwife or other person attending her, if any person or persons do attend her at the time, and he shall be prosecuted as the father of such child, before the court of general sessions of the peace, in the manner herein prescribed, in which prosecution she shall be admitted as a competent witness, her credibility being left to the court or jury who try the prosecution, he shall be adjudged chargeable with the maintenance of such child, with the assistance of the mother, as the court of general sessions of the peace, considering the condition and circumstances of the man so adjudged chargeable, and the mother, shall in their discretion order; and the person or persons upon whom any such order may be made, shall give security to perform the same, and the said court may order the said person adjudged chargeable as aforesaid, or the mother, or both, as they may think just and proper (all circumstances duly considered) to give security to save the town or place (which might be otherwise chargeable with the maintenance of such bastard) harmless and free from any charge for the maintenance of any such child; and the person or persons refusing or neglecting to give such security, may be committed to prison until the same be given.

Provided always, That if the pleas and proofs made and produced on the part and behalf of the man so accused, and other circumstances, be such as to satisfy the court or jury who try the prosecution, that he ought not to be charged with the maintenance, he shall be acquitted and shall be allowed his costs, to be taxed in usual form, as in civil causes, and execution to issue accordingly.

SECT. 2. *And be it further enacted,* That if either party shall request it, the prosecution shall be tried by a jury, and the issue shall be, whether chargeable or not.

SECT. 3. *And be it further enacted,* That no woman shall be admitted as a witness as aforesaid, who hath been convicted of any crime, which would by law disqualify her from being a witness in any other cause.

SECT. 4. *And be it further enacted,* That every justice of the peace to whom complaint is made against any man charging him with having begotten any such bastard

Trial by jury
if requested.

Competency
of the woman
as a witness.

Justice to
bind over the
reputed fa-
ther.

child, may convene such man before him, and at his discretion may bind him to the next court of general sessions of the peace, with sufficient surety or sureties to answer such charge and to abide the order of said court thereon, and the said court may take security by way of recognizance, of the person so charged, for his appearance at any future term as may be necessary.

Passed February 11, 1791.

AN ACT for the punishment of idle and disorderly Persons, for the Support and Maintenance of the Poor, and for designating the Duties and defining the Powers of Overseers of the Poor. Passed Feb. 15, 1791.
[Sept. 15, 1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the inhabitants of any town in this state, may build, or use any house such town may provide for a house of correction, or for a work-house, in which to set their poor to work; and at any legal meeting may raise all such sums of money as they may judge necessary for the purpose of procuring, building, or maintaining such house or houses, and such house or houses shall, and may be used for the keeping, correcting and setting to work of rogues, vagabonds, common beggars, lewd, idle and disorderly persons. And such town at any legal meeting may appoint all proper officers for the government of such house or houses, and shall, and may make and establish all necessary rules, orders, and regulations, not repugnant to the laws of this state, for the ruling, governing and punishing of such persons as may be there committed; and such rules, orders and regulations by them so made, shall be put in execution, provided that in no case shall the punishment inflicted by such orders, rules and regulations, exceed hard labour during confinement in such house, wearing fetters or shackles during such time, or whipping to the number of twenty stripes.

Town Houses
of correction,
&c

SECT. 2. *And be it further enacted,* That the court of general sessions of the peace in each county in this state, may, if they think best, build or otherwise provide at the charge of such county, a convenient house of correction, with convenient accommodations thereunto adjoining and belonging, to be used for the keeping and correcting of rogues, vagabonds, common beggars, lewd, idle and disorderly persons, and in which to employ the poor, and when there shall be no such house provided by the county, the common prison may be used for that purpose; and the said court may nominate and appoint a master of such house, and all other proper officers for the government thereof, and may make, ordain and establish such rules, orders and regulations as may be necessary for the government thereof,

County houses
of correction.

provided the same be not repugnant to the laws of this state, and provided that no punishment to be inflicted by any of such regulations exceed hard labour, or wearing fetters or shackles during confinement in such house, or whipping to the number of thirty-nine stripes.

Justices may
commit to
the house of
correction.

And any justice of the peace, as well as the court of general sessions of the peace, may commit unto the county house of correction, to be kept and governed according to the rules and orders of such house, any rogue, vagabond, lewd, idle or disorderly persons, persons going about begging, or persons using any subtle craft, juggling or unlawful games, or plays, or persons pretending to have knowledge in physiognomy or palmistry, or persons pretending that they can tell destinies or fortunes, or discover by any spells, or magic art, where lost or stolen goods may be found, common pipers, fiddlers, runaways, stubborn servants or children, common drunkards, common night walkers, pilferers, persons wanton and lascivious in speech, conduct or behaviour, common railers or brawlers, such as neglect their calling or employment, mispend what they earn, and such as do not provide for themselves or the support of their families, upon conviction of any of the offences or disorders aforesaid, on complaint made in writing, or such persons may be committed unto the house of correction in any town where such offender may be apprehended, if there be any such house of correction in such town.

This section
repealed by
act of 27
June, 1809.
p. 359.

SECT. 3. *And be it further enacted*, That when any person in any town or place in this state, shall be poor and unable to maintain him or herself, such person shall be relieved and maintained by the overseers of the poor of such town or place where such person shall happen to be; and in case such town or place are not by law chargeable with the maintenance of such poor person, they may in the method herein after prescribed, or by action, recover of the town or person chargeable by law with the maintenance of such poor person, all such sums as they shall have expended about the maintenance of such person, and in case they shall have notified the town or person liable by law to maintain such poor person, previous to their administering such relief, they shall have double costs of suit taxed for them, and such overseers may keep such poor persons in the work house, or may maintain them in any other way, they or the town shall judge best.

This section
repealed by
act of 27 June,
1809, p. 359.

SECT. 4. *And be it further enacted*, That when any person not an inhabitant of any town or place in this state, nor by the laws thereof the proper charge of any town or place in the same, or if any person or persons shall stand in need of relief in any town or place in this state, the selectmen or overseers of the poor of such town or place last mentioned, shall relieve and maintain such person and shall lay the account thereof before the justices of the court of

general sessions of the peace for the county in which such town or place lies : and the said justices having examined such accounts and adjusted the same, shall certify such sum (as they shall think proper to allow) to the president for the time being, who is hereby authorized with advice of council, to draw an order for the payment of the same out of the publick treasury.

Provided always, That it shall be the duty of the said overseers in the cases aforesaid, to use all lawful means to obtain an allowance from such town or persons as may be liable by law to pay for the support of any such poor persons, previous to their application to the sessions in the manner before described.

SECT. 5. *And be it further enacted*, That the overseers of the poor in every town or place in this state, be, and hereby are empowered to bind out to labour, or to employ in their work-house (if they have any) every person residing in their town or place, of what age soever, who live idly, and pursue no lawful calling or business, and who are poor and stand in need of the relief of such town or place, or whose families standing in need of such relief are supported by such town or place ; and every contract made by such overseers in any of the cases aforesaid, shall be as good and effectual as if such person bound him or herself for the same term of time, and such overseers shall, and may take the wages and appropriate it to the maintenance of such person, his or her family or children, provided always, that such contract shall be made in writing, and shall express the term such person is to serve, which shall not exceed one year at a time, but may be renewed or made for a shorter time as there may be occasion.

Overseers may bind out idle or poor persons, or set them to work.

SECT. 6. *And be it further enacted*, That the overseers of the poor in the respective towns and places in this state, be, and hereby are empowered to set to work in their work-house, or elsewhere, or bind out apprentice, as they may think best, all such children as are chargeable to such town, who do not employ themselves in some lawful business, and whose parents are unable to maintain them, and do not bind them out in good families ; the males may be bound out till they arrive at the age of twenty-one years, and the females, till they arrive at the age of eighteen years ; and such binding out shall be as good and effectual in law, to all intents and purposes, as any way and method of binding out apprentices whatever ; and the said overseers shall make their contract equitably, and for the benefit of the persons bound out, as much as may be, at least that the males be instructed to read and write, and the females to read and do such work and business as may be suitable to their circumstances and condition, as far as such children may respectively be capable.

Overseers may set to work or bind out poor children

And the said overseers shall inquire into the usage of all

persons by them or their predecessors bound out, and shall endeavour to redress any wrongs and injuries they may sustain.

And the persons to whom such persons are bound out, shall have the same authority over them, as masters of apprentices have by law over their apprentices, during their apprenticeship.

Persons of ability to relieve their poor relations.

SECT. 7. *And be it further enacted*, That the relations of any poor person standing in need of relief, in the line of father or grand father, mother or grand mother, children or grand children, of sufficient ability, shall be liable to maintain and relieve them when standing in need of relief; and in case any one standing in need of relief, have no such relations of sufficient ability, then, and in every such case the town or place in this state where any such person was born or last an inhabitant, shall be considered as the town or place liable to relieve and maintain such person, when standing in need of relief.

Settlement by residence.

See act of Jan. 1, 1796.

And every person who hath lived one year in any town or place, shall be deemed an inhabitant of such town or place, unless some time within such year, and before the expiration thereof, such person shall have been by warrant from the selectmen of such town or place directed to any constable thereof (or other person to whom they may think proper to direct the same) warned to depart from such town or place, and the said warrant and the return of such warning made by the person to whom directed, within the time aforesaid, returned to the clerk of the court of general sessions of the peace in the same county, and put on file, which shall always be done by the said clerk, and a minute thereon made of the time of receiving the same. And the said clerk shall receive six pence therefor. *Provided always*, That nothing in this section contained, shall be construed to extend to persons committed, or lawfully restrained in any town, or to such as shall be sent for education, or to any physician to be healed or cured.

See act of Jan. 1, 1796.

SECT. 8. *And be it further enacted*, That the taxing or assessing of any tenant or other person (so warned to depart from any town) for such lands, property and rateable estate as he may have, use, occupy or possess during his residence in such town, shall not be considered or construed, as entitling the person so taxed or assessed, to the rights and privileges of an inhabitant; nor shall such taxing or assessing be used, or in any wise operate, to injure or lessen the full force, validity and effect of such warning; such taxes or assessments, being always considered as made in common with the taxes and assessments upon the other lands, property and rateable estate in the respective towns; any law, usage or custom to the contrary notwithstanding.

SECT. 9. *And be it further enacted*, That if any per-

son in any town or place in this state, shall receive and entertain in his house, or suffer to live on his lands, lying in the same town or place where such person lives, any person or persons, who are not inhabitants of such town or place, for the space of eight months, and shall not in writing notify the selectmen, or some one of them thereof, and in such writing shall be expressed the names of such persons, the time when they came to his house, or to live on his land as aforesaid, and the place they came from (if known) every person neglecting to give such notice as aforesaid, shall forfeit, and be liable to pay a fine of ten shillings, for each and every such neglect, to be recovered with costs by the selectmen, for the use of the town where such neglect may happen; provided they shall sue for the same within six months from the time any such penalty may be incurred.

Penalty for entertaining persons not inhabitants, eight months without giving notice

SECT. 10. *And be it further enacted*, That the master of every ship or other vessel, shall, within three days, from and after the time of entering his ship or vessel, deliver to the selectmen or town clerk of the town where any such ship or vessel shall arrive, a true and perfect list, or certificate under his hand, of the christian and surnames of all persons, passengers or others, brought in such ship or vessel, not belonging thereto, and not heretofore inhabitants of this state, with a particular account of their several circumstances, so far as he shall know them, on penalty of forfeiting to the use of the town, in which such vessel arrives, the sum of two pounds for each person; to be recovered by action by the selectmen, overseers of the poor, or town treasurer. And when any person so brought by any such master of vessel, shall be sick or lame, and likely to be chargeable, such master shall carry him or her out of this state again, within two months after request made, or give bond in a reasonable sum with sufficient sureties, that said person shall not become chargeable to said town, and shall be liable to pay all charges of supporting any such person.

Masters of vessels to give a list of passengers

SECT. 11. *And be it further enacted*, That all disputes, which may arise in any county in this state, concerning the support and maintenance of any poor person, may be heard and determined by three justices of the peace, one of whom shall be of the quorum in such county.

Three justices to determine disputes concerning maintenance of the poor.

And the said justices on a petition being presented to them, shall order the adverse party to be served with a copy thereof, with their order thereon, appointing a proper day and place of hearing thereon, giving at least eight days notice. And the said justices, on hearing both parties, or such of them as attend (due notice having been given) shall make such order thereon as shall appear just, either for the past or future maintenance of such poor person or persons, and may tax costs for either party, and issue execution on their judgment, under the hand and seal of the said quorum justice,

This and the next sect. repealed by act of 27 June, 1809.

who shall keep the records and proceedings, and who shall be competent to certify such records and proceedings. And where the judgment of such justices shall be against any town or place, the execution shall issue against the inhabitants of such town or place. And the said justices shall be allowed six shillings per day and travel, as in cases of taking depositions; the petition shall be taxed as a writ; the fees for copying, for execution, and the parties and witnesses fees, the same as in other cases at the court of common pleas; and in case the person or persons against whom such order may be made for future maintenance, shall disobey such order, the petitioner, or person or persons in whose favour the order was made, may apply by way of petition to the former justices, or any three other justices in the same county, one of whom shall be of the quorum, setting forth the former order, and that the same hath not been obeyed. And notice in manner as before mentioned, shall be given, and on a full hearing of the parties, or such of them as attend, the said justices may make such new order as may be just, and issue execution for such damages, as the petitioner may have sustained, by reason of the said order's not having been obeyed, and may tax double costs for the petitioner, and so often as occasion may require. And the person or persons aggrieved at any judgment given by any justices as aforesaid, may, at any time within six months after said judgment is given, petition the justices of the superior court, setting forth the original petition, and order or sentence thereon, and briefly stating the evidence produced on trial, and assigning such errors as shall appear therein; and the petition shall be filed in the office of the clerk of said superior court, and a copy thereof, attested by the clerk, with a notification signed by the petitioner to the adverse party, to appear at the next superior court to be holden in the county where the order was made, and shew cause why the prayer thereof should not be granted, shall be served upon the adverse party, fifteen days before the sitting of said court. And the petitioner shall enter his said petition, and shall produce copies of all the papers filed in the cause; and the justices of said superior court shall hear the said parties, or such of them as appear, on the matters and causes assigned for error, as well in fact, as in law, and issues in fact shall be tried by jury.

And in case the first sentence be reversed, the said superior court shall award to the petitioner restitution of all damages and costs sustained by the original judgment, with additional costs; otherwise the adverse party shall recover double costs, and execution shall issue accordingly. And in case, in any such dispute, the parties litigant, live in different counties, one of the justices of the peace empowered to hear and try the same, shall be a justice and of the quorum throughout the state.

SECT. 12. *And be it further enacted, That no applica-*

tion to the superior court in any case, shall supersede any process of the three justices, until the final order of the said superior court.
Passed February 15, 1791.

AN ACT respecting Paupers.

Passed June 18, 1807.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, if any person or persons shall bring and leave, or with an intent to leave, any pauper, poor and indigent person or persons, having no visible means of support from any other state, into any town or place in this state, who shall not have any legal settlement within this state, knowing him, her, or them to be such, shall forfeit and pay a sum not exceeding three hundred dollars, nor less than fifty dollars, at the discretion of the court before whom the same is tried, for every such offence; to be sued for and recovered by action of debt before any court proper to try the same; one moiety of which shall be to the use of any person or persons who may sue for the same, and the other moiety to the use of the state.
Approved June 18, 1807.

See act of June 27, 1809

Penalty

AN ACT in addition to, and amendment of, an act, entitled, "An act for the punishment of idle and disorderly persons, for the support and maintenance of the poor, and for designating the duties and defining the powers of overseers of the poor."
Passed June 27, 1809

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That when any person not an inhabitant of any town or place in this state, nor by the laws thereof the proper charge of any town or place in the same, shall stand in need of relief, the selectmen or overseers of the poor of the town or place where such poor person may be, shall relieve and maintain such person, and shall, within one year from the time of the relief so afforded, or within six months after the termination of any suit which may have been commenced within the said term of one year, against any town or person, for the recovery of the claim for the relief so afforded, lay the account thereof before the justices of the court of common pleas within and for the county in which such town or place lies: and said justices shall examine and adjust the same, and shall draw an order on the treasurer of said county for such sum as they shall think proper to allow, to be paid out of the treasury of said county.

Persons not inhabitants of this state to be relieved.

Accounts to be laid before C. C. P.

To be paid out of county treasury.

SECT. 2. *And be it further enacted,* That when any person, in any town or place in this state, shall be poor and unable to maintain him or herself, such person shall be re-

Persons inhabitants of this state to be relieved.

believed and maintained by the overseers of the poor of such town or place where such person shall happen to be : and in case such town or place is not by law chargeable with the maintenance of such poor person, they may, by action in any court proper to try the same, recover of the town or person chargeable by law with the maintenance of such poor person, all such sums as they shall have expended about the maintenance of such person : Provided, That in all cases, notice in writing, signed by a majority of said selectmen or overseers, and stating the sums expended by them for the relief of such poor person, shall be given in the manner hereinafter mentioned, to the town, place, or person, chargeable by law with the maintenance of such poor person, within ninety days from the time the first relief shall have been so afforded ; and such notice shall be served on the town that may be chargeable, by the sheriff of the county in which such town lies, or his deputy, by leaving an attested copy of such notice, with his return thereon, with one at least of the selectmen or overseers of the poor, and with the clerk of such town or place ; and upon any person who may be chargeable as aforesaid, by giving him an attested copy of the notice, with his return thereon, or by leaving an attested copy thereof at his or her last and usual place of abode ; and the sheriff or deputy serving the same, shall, within twenty days from the time of the service thereof, make a return of the original notice, with his doings therein, to the clerk of the court of common pleas for said county, and shall receive the same fees for his travel and service as by law are allowed for serving writs. And no action shall be sustained against any town or person, for any sums expended as aforesaid, unless such notice has been given in the manner aforesaid. Provided also, That no action shall be sustained, unless commenced within three years from the time when said sums were expended for the relief of such poor person. And such selectmen or overseers may keep such poor persons in the work-house, or may maintain them in any other way they or the town shall judge best, until they shall be removed by the town or person chargeable with their maintenance.

SECT. 3. *And be it further enacted*, That from and after the passing of this act, if any person or persons shall bring and leave, or bring with an intent to leave, any pauper, poor and indigent person or persons, having no visible means of support, into any county in this state, from any other county in which such pauper or poor person may have been supported and maintained, or have resided, such pauper or poor person not having a legal settlement in any town or place, nor any relation to whom such pauper or poor person may be chargeable for his or her maintenance, within the county into which such pauper or poor person may be brought, knowing him, her, or them to be such ; the person

Towns not chargeable to recover by action.

Notice to be given to whom chargeable.

How served.

Return of notice.

Officer's fees

No action to be sustained unless notice given.

Limitation of actions.

Offenders, for bringing paupers into any county, may be indicted.

or persons so offending may be indicted for such offence, and, on conviction thereof, shall be fined in a sum not exceeding two hundred dollars, nor less than thirty dollars, for the use of the county in which such offence was committed; or imprisoned not exceeding six months, at the discretion of the court: and such pauper or poor person shall be removed, by order of the court, into the county from which he or she was brought.

Penalty.

Paupers to be removed.

SECT. 4. *And be it further enacted*, That the third and fourth sections, and also the two last sections, in an act, entitled, "An act for the punishment of idle and disorderly persons, for the support and maintenance of the poor, and for designating the duties and defining the powers of overseers of the poor," *Passed February 15, 1791*, be, and they are hereby, repealed. *Provided, nevertheless*, That any claim which has already accrued against any town or person, under said act, may be prosecuted to final judgment and execution, in the same manner as if this act had not passed: and that this act shall not be in force until the first day of October next.

Former act repealed in part.

Claims already accrued may be prosecuted.

Approved June 27, 1809.

RESOLVED, that his excellency the governor be, and he hereby is authorized and empowered, by and with the advice of council, to draw orders on the treasurer for the payment of all accounts, which may be due to any town for the support and maintenance of state paupers prior to the first day of October last; any thing in the laws of this state to the contrary notwithstanding.

Passed June 21, 1810

Approved June 21, 1810.

AN ACT authorizing the justices of the courts of common pleas to liquidate certain accounts therein mentioned.

Passed June 19, 1811.

WHEREAS it appears that there are several accounts in favour of sundry towns in this state for the support of state paupers prior to the first day of October in the year of our Lord eighteen hundred and nine, which remain unliquidated:

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the justices of the courts of common pleas in the several counties in this state be, and they hereby are authorized and empowered to receive, examine and allow all accounts that may exist in favour of any town for the support and maintenance of state paupers prior to the first day of October aforesaid, and to certify the same to the governor and council, who are hereby empowered to draw orders on the state treasurer for the same.

Approved June 19, 1811.

Passed Jan.
1, 1796.

AN ACT to ascertain the ways and means by which persons may gain a settlement in any town or district within this state, so as to entitle them to support therein, if they shall be poor and unable to support themselves.

Settlement
how acquired.

BE it enacted by the senate and house of representatives, in general court convened, That legal settlements in any town or district within this state, shall be hereafter gained so as to oblige such town or district to support the persons gaining the same, if they become poor and unable to support themselves, by the ways and means following, and not otherwise.

Married woman.

1. A married woman shall have the settlement of her husband if any he have within this state, but if otherwise, her own, if any she had at the time of marriage, shall not be lost or suspended by such marriage, unless she shall have gained a legal settlement elsewhere ; but in case no such settlement shall be by her obtained after such marriage ; and in case she shall become poor and be supported at the cost and charge of the town or district of her settlement at the time of such marriage, the husband being poor and needing relief, he shall be provided for and supported in the same town or district, but at the charge of the state.

Legitimate children.

2. Legitimate children shall have the settlement of their father, if he shall have any such within this state, until they gain a settlement of their own ; but if he shall have none, they shall have the settlement of their mother, if she shall have any.

Illegitimate children.

3. Illegitimate children shall have the settlement of their mother at the time of their birth, if she shall have any within this state ; but neither legitimate or illegitimate children shall gain a settlement by birth in any place where they may be born, if neither of their parents shall then have a settlement there.

Settlement by estate.

4. Any person of twenty-one years of age and upwards, having real estate of the value of one hundred and fifty dollars, or personal estate of the value of two hundred and fifty dollars in the town or district where he dwells and has his home, and shall for the term of four years pay all taxes duly assessed on his poll and the estate aforesaid, shall thereby gain a settlement in such town or district.

Persons admitted.

5. Any person who shall be admitted an inhabitant by any town or district at a legal meeting, in the warrant for which an article shall be inserted for that purpose, or shall be chosen, and actually serve one year in the office of clerk, treasurer, selectman, overseer of the poor, assessor, constable, or other town officer liable to be fined for not accepting his office, being duly elected thereto in any town or district within this state, shall thereby gain a settlement in said town or district.

6. All persons dwelling and having their homes in any unincorporated place in this state, at the time when the same shall be incorporated into a town or district, shall thereby gain a settlement therein. Persons in unincorporated places.

7. Upon division of towns or districts, every person having a settlement in either of them, but being removed therefrom at the time of such division, and not having gained a settlement elsewhere, shall have his settlement in that town or district wherein his former dwelling place or home shall be upon such division. And when any new town or district shall be incorporated, composed of one or more old incorporated towns or districts, all persons settled in the town or towns, district or districts, of which such new town or district is composed, and who shall actually dwell and have their homes within the limits of such new town or district at the time of its incorporation, shall thereby gain a settlement in such new town or district. Division of towns.

Provided, nevertheless, That no person residing in that part of any town or district, which upon such division shall be incorporated into a new town or district, having then no settlement therein, shall gain any, by force of such incorporation; nor shall such incorporation prevent his gaining a settlement therein, within the time, and by the means by which he would have gained a settlement there if no such division had been made. Provide

8. Any person of the age of twenty-one years, who shall hereafter reside in any town or district within this state, and being taxed for his poll for the term of seven years, shall pay all taxes legally assessed on his poll and estate during the said term, shall be an inhabitant in said town or district. Settlement by being taxed.

And every legal settlement heretofore gained, or which shall be gained by force of this act, shall continue until lost or defeated by gaining a new one; and upon gaining a new settlement, all former settlements shall be lost.

Approved January 1, 1796.

*AN ACT in addition to the laws of this State respecting paupers.**

Passed Dec 20, 1797.

WHEREAS no provision is made by the laws of this state for the removal of paupers, after being duly warned, whereby great inconveniences have arisen:

Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That any person duly warned, being of vicious character, or having no visible means of support, and having no settlement in the town or place in which he or she does or may reside, who shall neglect to depart such town or place for the space of four-

Persons duly warned

* Query—Is this act now in force?

may be carried to the last place of settlement.

teen days after warning given for that purpose, may, by warrant from the selectmen thereof, or the major part of them, directed to any constable of the same, be carried to the town or place in which he or she was last settled; and it shall be the duty of the constable to whom such warrant may be directed, faithfully to serve and return the same.

Towns to pay treble costs, &c.

SECT. 2. *And be it further enacted*, That when any person shall be carried, pursuant to this act, to the town or place where he or she had the last settlement, and shall be returned again by order of said town or place, or the selectmen thereof, to the town or place from which he or she was so carried, said person, without warning, may be again removed as aforesaid, as often as he or she may be returned to the town or place from which he or she was so returned, which town or place shall pay treble costs for each removal, after the first, to be recovered in any court proper to try the same, by the selectmen of the town to which the expense has arisen, or by any other person or persons appointed to prosecute therefor.

Any justice of the peace may apprehend, hear, &c.

SECT. 3. *And be it further enacted*, That if the person removed as aforesaid, shall voluntarily return to the town or place from which he or she was first carried, and shall remain there for the space of seven days, it shall be lawful for any justice of the peace in the county where the same may happen, to apprehend the offender, and hear and determine the offence, and on conviction, may sentence him or her to be publicly whipped not exceeding ten stripes for each offence; and if any person of the aforementioned description, and not having a settlement within this state, shall be warned to depart from the town or place where he or she may be, and shall refuse or neglect so to do for fourteen days after said warning, unless prevented by sickness or inability, it shall be lawful for any justice of the peace in the county where the same may happen, to apprehend said person and convene him or her before him for examination, and if it be determined by said justice, that said person so apprehended be of vicious character, or has no visible means of support, said justice shall warn him to depart within ten days from the time of such warning, and on his neglecting or refusing so to do, unless prevented by sickness or inability as aforesaid, it shall be lawful for said justice to proceed against him or her as against the person voluntarily returning after removal as aforesaid; and the warrant before mentioned shall be in the following form, viz.

Warrant.

State of New- } To any constable of in the coun-
Hampshire. } ty of in said State.

Greeting.

Whereas A. B. has no legal settlement in said and has been duly warned to depart therefrom, and has neglected so to do more than fourteen days since the warn-

ing, and is of vicious character, or has no visible means of support (*as the case may be*) and being last settled in the town or place of (*as the case may be*) in the county of in said state.

In the name of said state you are hereby required to take and carry the said A. B. to the town or place (*as the case may be*) of in which he was last settled, and there deliver him to one of the selectmen or overseers of the poor of said with a copy of this warrant : and make true return of said warrant with your doings therein as soon as may be.

Given under our hands and seals at the day of Anno Domini.....

Approved December 20, 1797.

AN ACT for the encouragement of literature and genius, Passed Nov. 7, 1783.
and for securing to authors the exclusive right and benefit of publishing their literary productions for twenty years.

As the improvement of knowledge, the progress of civilization, and the advancement of human happiness, greatly depend on the efforts of learned and ingenious persons in the various arts and sciences ; as the principal encouragement such persons can have to make great and beneficial exertions of this nature, must consist in the legal security of the fruits of their study and industry to themselves ; and as such security is one of the natural rights of all men, there being no property more peculiarly a man's own, than that which is produced by the labour of his mind : Therefore, to encourage the publication of literary productions, honorary and beneficial to the publick :

SECT. 1. *Be it enacted by the council and house of representatives, in general assembly convened, and by the authority of the same,* That all books, treatises, and other literary works, having the name or names of the author or authors thereof, printed and published with the same, shall be the sole property of the said author or authors, being subjects of the United States of America, their heirs and assigns, for the full and complete term of twenty years from the date of their first publication.

Copy right.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That if any person or persons shall print, reprint, publish, sell, or expose to sale ; or shall cause to be printed, re-printed, published, sold or exposed to sale, any book, treatise, or other literary work, not yet printed, written by any subject of the United States of America, whose name as author, shall have been thereto prefixed, without consent of the author or authors, or their assigns, during said term, shall forfeit and pay a sum not exceeding

Penalty for printing books, &c. without consent of the author.

one thousand pounds, nor less than five pounds, to the use of such author or authors, or their assigns; to be recovered by action of debt, in any court of record proper to try the same.

Provided always, That this act shall not be construed to extend in favour, or for the benefit of any author or authors, subject or subjects of any other of the United States, until the state or states of which such authors are subjects, shall have passed similar laws, for securing to authors the exclusive right and benefit of publishing their literary productions.

Passed November 7, 1783.

Passed Dec.
28, 1805.

AN ACT empowering school districts to build and repair school-houses, and regulating schools.

Towns may
be divided in-
to school dis-
tricts.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the several towns and places within this state be, and they hereby are respectively empowered at any legal meeting for that purpose, to divide into school districts, and to define the limits thereof, and the same from time to time to alter in such manner as shall be thought fit and convenient; and a record of such division and alteration shall be made in the clerk's office of such town or place within three months after any such division or alteration shall have taken place; and no person shall have a right to send to, or receive any benefit from any school in a district where he is not a resident without the consent of such district.

School dis-
tricts empow-
ered to raise
money, &c.

SECT. 2. *And be it further enacted,* That the inhabitants of the several school districts, whose limits are or shall be defined as aforesaid, qualified to vote in town affairs, be, and they hereby are empowered, at any meeting called in the manner hereinafter prescribed, to raise money for the purposes of erecting, repairing or purchasing a school-house, in their respective districts, and of necessary utensils for the same; to determine in what part of the district to erect said school-house; to choose a committee to superintend the building and repairing of said school-house, or for purchasing the same; and to choose a clerk, who shall be sworn to a faithful discharge of the duties of his office; whose duty it shall be to make a fair record of all votes passed at any meeting of the district, and to certify the same when required; and the money raised as aforesaid shall be assessed and collected in the manner as is hereinafter provided.

Persons to be
taxed in their
own district.

SECT. 3. *And be it further enacted,* That for the purposes aforesaid, every person shall be taxed in the district in which he lives for all the estate he holds in the town, being under his own actual improvement, and all other of his real estate in the same town, shall be taxed in the district in which it is included; and lands when the owner thereof lives without the town, shall be taxed in such district as the

selectmen, having regard to the local situation thereof, shall appoint; and it shall be the duty of the selectmen before they assess a tax for any district, to determine in which district such lands respectively shall be taxed, and to certify in writing their determination to the clerk of the town, who shall record the same, and such land while owned by any person residing without the limits of the town, shall be taxed in such districts until the town shall be districted anew:

Provided however, that all the lands within any town owned by the same person not living therein, shall be taxed in one and the same district; and the selectmen shall assess in the same manner as town taxes are assessed on the polls and estates of the inhabitants composing any school district defined as aforesaid, and on lands in said town, belonging to persons living out of the same, which the selectmen shall have directed to be taxed in such district, all monies voted to be raised by the inhabitants of such district for the purposes aforesaid, in thirty days after the clerk of the district shall certify to said selectmen the sum voted by the district to be raised as aforesaid: and it shall be the duty of said selectmen to make a warrant directed to one of the collectors of the town to which such district belongs, empowering and requiring said collector to levy and collect the tax so assessed, and to pay the same within a time limited in said warrant, to the treasurer or selectmen of the town, to whom a certificate of the assessment shall be made by the assessors, and the money so collected and paid shall be at the disposal of the committee of the district, to be by them applied for the building, repairing or purchasing of a school-house in the district to which they belong; and such collector in collecting such tax, shall have the same powers, and be holden to proceed in the same manner as is by law provided in collecting town taxes.

Proviso

Money collected, at whose disposal.

SECT. 4. *And be it further enacted,* That the treasurer or selectmen of any town to whom a certificate of the assessment of a district tax shall be transmitted as aforesaid, shall have the same authority to enforce the collection and payment so assessed and certified as if the same had been voted to be raised by the town for the town's use.

Power of Treasurer and Selectmen.

SECT. 5. *And be it further enacted,* That it shall be the duty of the selectmen of the several towns and places divided in school districts as aforesaid, upon application made to them, in writing, by three or more freeholders resident within any school district in their respective towns, to issue their warrant directed to one of the persons making such application, requiring him to warn the inhabitants of such district, qualified to vote in town affairs, to meet at such time and place in the same district, as the selectmen shall in their warrant appoint; and the warning aforesaid, shall be by notifying personally every person in the district qualified to vote in town affairs, or by leaving at their usual

District meetings how to be warned

places of abode a notification in writing, expressing therein the time, place and purpose of the meeting, ten days at least before the time appointed for holding the same; and any vote to raise money passed by a majority of the inhabitants of any school district present, at any district meeting holden pursuant to this act, shall be obligatory on the inhabitants of said district, to be assessed, levied and collected, as prescribed in this act.

Selectmen
may deter-
mine the
place for a
school house,
in case.

SECT. 6. *And be it further enacted*, That if the inhabitants of any school district cannot agree where to erect a school-house for the accommodation of the same, the selectmen of the town to which such district belongs, upon application made to them by the committee of the district, are hereby authorized and empowered to determine on the place where a school-house, for the use and accommodation of the district, shall be erected.

Approved December 28, 1805.

Passed Dec.
22, 1808.

AN ACT for the better regulation of Schools, and for repealing certain laws now in force respecting the same.

Sum to be as-
sessed.

To be appro-
priated.

Persons qual-
ified to keep
school.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That the selectmen of the several towns, and parishes, and places within this state, be, and they are hereby empowered and required to assess annually the inhabitants of their respective towns, parishes, and places, according to their polls and rateable estates, together with the improved and unimproved lands and buildings of non-residents, in a sum to be computed at the rate of seventy dollars for every one dollar of their proportion for publick taxes, for the time being, and so for a greater or less sum; which sums, when collected, shall be appropriated to the sole purpose of keeping an English school, or schools, within the towns, parishes, and places, for which the same shall be assessed, for teaching the various sounds and powers of the letters in the English language, reading, writing, English grammar, arithmetic, geography, and such other branches of education as it may be necessary to teach in an English school.

SECT. 2. *And be it further enacted*, That no person shall be deemed qualified to teach any such school, unless he or she procure a certificate from some able and reputable English grammar school-master, and learned minister of the gospel, or preceptor of some academy, or president, professor, or tutor of some college, that he or she is well qualified to teach such school; and likewise a certificate from the selectmen or minister of the town or parish to which he or she belongs, that he or she sustains a good moral character; and the said certificates be presented to the selectmen, or committee for inspecting schools, in the town or parish where such school is to be kept, previous to the commencement of such school.

Provided, nevertheless, That the literary qualifications of school-mistresses be required to extend no further than that they are able to teach the various sounds and powers of the letters in the English language, reading, writing, and English grammar; granting them the liberty always of teaching such other branches of female education as may be deemed necessary to be taught in schools under their tuition. School mistresses.

SECT. 3. *And be it further enacted,* That each town in this state shall, at their annual meeting, appoint three or more suitable persons, whose duty it shall be to visit and inspect the schools annually in their respective towns and parishes, at such times as may be most convenient for the parties concerned, and in a manner which they may judge most conducive to the progress of literature, morality and religion: and in case any town neglect to appoint such persons, the duty of inspecting schools shall then devolve upon the selectmen of such town. Inspectors & visitors of schools.

SECT. 4. *And be it further enacted,* That if the selectmen of any town, parish or place, neglect to raise and appropriate, for the aforesaid purposes, the money required by this act to be by them assessed, collected, and appropriated, such selectmen shall forfeit and pay the full sum which they shall be found delinquent in assessing, seasonably collecting, and duly appropriating; which sum shall be recovered by bill, plaint, or information, in any court proper to try the same; and when recovered, shall be appropriated for keeping a school or schools in the town or parish where such delinquency shall happen: and it shall be the duty of the town clerk for the time being, excepting in cases where the town clerk is also one of the selectmen, then the first constable of the respective towns or parishes, to see that such sums are collected out of the goods and estates of such delinquent selectmen; and that the money, so collected, be appropriated according to the true intent and meaning of this act. Duty of selectmen.

SECT. 5. *And be it further enacted,* That the several school districts in this state be, and they hereby are, authorized and empowered to purchase and hold, in fee simple, so much land as may be necessary for erecting a school-house, and such other buildings, and also for such yard as may be necessary for the accommodation of said schools: and the inhabitants of the said several school districts within this* state are hereby authorized and empowered, at any legal meeting duly warned and holden for that purpose, to raise any sum or sums of money for the purpose of purchasing the land aforesaid; provided it do not exceed in quantity one fourth part of an acre; and may maintain any action of ejectment or trespass, against any person or persons who may Penalty

This is omitted in the original by mistake

trespass upon or do damage to said land or buildings; and the same pursue to final judgment and execution.

Laws repealed.

SECT. 6. *And be it further enacted*, That all laws now in force, respecting the regulation of schools, except an act passed December 28th, one thousand eight hundred and five, entitled, "An act empowering school-districts to build and repair school-houses, and regulating schools," be, and they hereby are repealed.

Proviso.

Provided, nevertheless, That this act do not take effect until the first day of February next.

Approved December 22, 1803.

Passed Dec.
18, 1805.

AN ACT to secure to Masters and Apprentices bound by deed or indenture, their mutual privileges.

Minors of
certain age
may be bound
apprentices,
by whom and
in what mode.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened*, That minors of the age of fourteen years or upwards, may be bound by deed or indenture, as apprentices to the age of twenty-one years, by their father; or in case of his decease by their mother or guardian, having the minor's consent expressed in the indenture. And any minor, having no father, mother or guardian, may by deed or indenture bind himself, with the approbation of the selectmen or the overseers of the poor or a major part of them, of the town where said minor belongs: *Provided*, that in every case, there shall be two indentures of the same tenor and form executed by both, one to be kept by each party. And where any are bound by the selectmen or overseers of the poor, they shall express their approbation thereon, and sign the same. And all contracts which shall be made by any parent, guardian, selectmen or overseers, or by any minor for himself pursuant to this act, shall be good and effectual in law against all parties.

Leaving the
service of
master may
be brought
back, and
parent or
guardian lia-
ble for costs
and damages.

SECT. 2. *Be it further enacted*, That if any apprentice bound as aforesaid shall depart from the service of his said master, it shall be lawful for the master of said apprentice to empower any and all persons (by giving publick notice in any newspaper, or by posting up advertisements in publick places) to apprehend, detect, and bring back said apprentice to the place of his duty: in which case the necessary expense shall be defrayed by the said master, to be recovered by him of said apprentice's parent or guardian, together with the reasonable damage he may have sustained by said apprentice's absconding or leaving his service, and the same shall be a proper article of charge in his guardianship account.

Duty of pa-
rents, guard-
ians, &c.

SECT. 3. *Be it further enacted*, That it shall be the right and duty of all parents and guardians, selectmen or overseers, as the case may be, to inquire into the usage of such minors and defend them from the cruelties, neglects, or breaches of covenant of the said master; and such parents,

guardians, selectmen, or overseers, in case of breaches of the contract as above, may complain to any justice of the peace in said county, of any personal cruelty, ill usage, neglect or breaches of covenant, and the justice, after having duly notified the parties, shall proceed to hear and determine such complaints, and if the complaint shall be supported, the court may render judgment that the said minor be discharged from the obligation and service of his said master, and the said master to pay costs of court, and all damage the said apprentice may in the judgment of the court have sustained from any cruelty, ill usage, or neglect of his said master, or from any personal abuse of the master, or from others the said master, may have countenanced in abusing said apprentice, and execution may be issued accordingly; but if said complaint shall not be supported, the court shall award costs to the respondent.

Minors ill-treated may be discharged from the service of master.

SECT. 4. *And be it further enacted,* That in case any apprentice shall lay violent hands on, strike or violently abuse his said master, his master on complaint may have him tried before some justice of the peace of said county; and if it shall be made to appear that said apprentice is guilty in manner and form as shall be represented to said court, said apprentice, his parent or guardian, shall pay all damages his said master may have sustained by any such abuse, violence or injury, and costs of court—And any such conduct may acquit the said master from all obligations he may be under to said apprentice, his parent or guardian, if the master chooses to give up the indenture which he has entered into with the parties.

Apprentice assaulting master;—redressed.

SECT. 5. *And be it further enacted,* That if any apprentice, bound as aforesaid, shall be guilty of any gross misbehaviour, wilful neglect or refusal of his duty, and persist therein after being suitably remonstrated with by his said master, he the said master may complain thereof to any justice of the peace in said county whereof he is an inhabitant, and the said justice, after duly notifying said apprentice, and all persons covenanting on his behalf, shall proceed to hear and decide on such complaints; and if the said complaint shall be supported, he may render judgment that the master shall be discharged from the contract or covenant he may be under to said apprentice, his parent, guardian or selectmen, as the case may be; and the cost shall be paid by the said parent, guardian or minor.

Apprentice misbehaving, master's redress.

SECT. 6. *And be it further enacted,* That when it shall be made to appear that the master of any apprentice has been negligent in teaching or causing any apprentice to be taught the art, trade or profession he became obligated to teach him, the same shall be actionable in any court of law suitable to try the same, and the court shall award such damage to said apprentice, as he shall make to appear in the judgment of said court after he shall become of

Master liable for not instructing an apprentice.

age, and execution may issue accordingly against such master.

Penalty for enticing apprentice from his master.

SECT. 7. *And be it further enacted*, That in case any person or persons shall persuade or entice away any apprentice from the service of his master, or secrete, convey, send or carry off any apprentice either by sea or land, or cause any apprentice to leave his said master so as to deprive any master of the service of any apprentice, such person or persons thus secreting or conveying away any apprentice as above, shall make good all damages to said master, besides paying a fine to the use of the county of not less than five dollars or more than one hundred dollars, as the guilt or aggravation of the case may be made to appear in the judgment of any court proper to try the same.

Covenant not binding after decease of master,

SECT. 8. *And be it further enacted*, That no covenant of apprenticeship entered into by any minor, his parent, guardian or selectmen, as the case may be, for the purpose of such minor's learning any trade, mystery or art, and made to any master, shall be binding on such minor, parent or guardian, &c. after the decease of the master; but on the death of such master, the said covenant shall be deemed null and void from that time, unless when it shall so happen that the apprentice's time agreeably to contract shall have nearly expired; in this case, it shall be optional with the apprentice to tarry his time out in the service of the widow, or the executor or administrator of his said master's estate, and thereby become entitled to all the gifts, grants, engagements and promises set forth and specified in the indenture of apprenticeship; and the same shall be paid out of the estate of his said master, as though the master had lived until his apprenticeship had expired.

unless.

Approved December 28, 1805.

AN ACT regulating Licensed Houses.

Passed June 14, 1791.
[Sept. 15, 1792.]

Licenses

SECT. 1. **B**E *it enacted by the senate and house of representatives, in general court convened*, That no person shall exercise the business of a taverner or retailer without license. And if any person shall at any time without license, first had and obtained in writing from the selectmen of the town or place where such person belongs, sell any wine, rum, gin, brandy or other spirits by retail, that is, in less quantities than one gallon sold, delivered and carried away at one and the same time, or shall sell any mixed liquors, part of which are spirituous, such person shall for every such offence forfeit and pay the sum of forty shillings, to be recovered by any person who will sue for the same, one half thereof to his own use, the other half to the use of the county where the offence is committed.

SECT. 2. *Provided always, and be it further enacted,* That no license of the selectmen to keep tavern, or to retail, shall be of any avail to the person licensed, until such license shall be recorded in the book of records belonging to such town or place by the clerk thereof, who shall be paid nine pence therefor. To be recorded.

And provided further, That if the selectmen shall unreasonably neglect or refuse to license any suitable person applying therefor, such person and suitable persons in towns and places where there are no selectmen, may apply to the court of general sessions of the peace in the same county, who may if they think proper, license such persons.

SECT. 3. *And be it further enacted,* That no license shall be for more than one year from the time of granting the same. To continue one year.

SECT. 4. *And be it further enacted,* That every person licensed to keep tavern, shall, at all times be furnished with suitable provisions and accommodations for travellers, their cattle and horses, on penalty of forfeiting the sum of twenty shillings to the use of any person who will sue for the same, and may on complaint made be deprived of their license. Taverner's duty.

SECT. 5. *And be it further enacted,* That no taverner shall suffer any of the inhabitants of the town or place where such taverner lives, to remain in his house drinking and tipping (such person having no lawful and necessary business there) after nine of the clock in the evening, nor at any time on the sabbath, nor shall any taverner suffer any person at any time to drink to drunkenness or excess in his house, or suffer any minor or servant to sit drinking there, without the leave of their parent, guardian or master, on penalty of forfeiting twenty shillings for every such offence, on conviction before any justice of the peace in the county where the offence is committed.

SECT. 6. *And be it further enacted,* That no licensed person shall have or keep in, and about his house or houses, out houses, yards, gardens or places to him belonging, any cards, dice or any other implements used in gaming, nor shall any such licensed person suffer any person or persons to use or exercise any such implements, or to play at any unlawful game or sport, such as cards, dice, nine-pins or billiards, within his house or houses, out houses, yards, gardens or places to him belonging, on penalty of paying a fine of forty shillings for each offence, to be recovered on complaint to a justice of the peace, and said fine shall be appropriated one half to the use of the complainant, and the other half to the use of the county in which the conviction shall be, which shall be the same in which the offence is committed; or said fine may be recovered on indictment of Penalty for allowing gaming.

the grand jury, in which case the whole shall be to the use of the county.

And every person convicted of playing at any unlawful game in any of the places before mentioned, shall be fined for each offence twenty shillings, to be recovered and appropriated as in the case last before mentioned.

Penalty on retailers selling mixed liquors.

SECT. 7. *And be it further enacted*, That no person licensed to retail only, or any other person, excepting taverners, shall sell any mixed liquor, part of which is rum, brandy, wine, gin or other spirituous liquors, to any person directly or indirectly, or suffer any person to drink any such mixed liquor so sold, or to drink any rum, brandy, gin, wine or any other spirituous liquor sold by him in his shop, house or the appendages thereof, on penalty of forfeiting the sum of forty shillings for every such offence, to be recovered and appropriated in the same manner, as the forfeiture for selling without license as before mentioned; nor shall any such retailer sell any rum, wine, gin, brandy or other spirituous liquors, in less quantities than one pint by him sold and delivered at one and the same time.

Selectmen to inspect licensed houses.

SECT. 8. *And be it further enacted*, That it shall be the duty of the selectmen, carefully to inspect all licensed houses, and in no case to license persons that keep disorderly houses; and selectmen, tythingmen and grand jurors shall inform of all breaches of this law, and of all disorders that may be committed in any licensed house.

Limitation of prosecutions.

SECT. 9. *And be it further enacted*, That all actions, complaints, and indictments for any offences in this act mentioned, shall be commenced, made and found within six months after such offence may be committed, and not afterwards.

SECT. 10. *And be it further enacted*, That every person on being licensed by the court of general sessions of the peace; or on having his license renewed by the said court, shall pay three shillings, whereof nine pence shall be to the clerk of the court of general sessions of the peace, and the residue for the use of the county, and shall be paid by the said clerk to the county treasurer.

SECT. 11. *And be it further enacted*, That no taverner shall be entitled to recover more than twenty shillings, on any account for spirituous liquors sold to any inhabitant of the town or place, and drank in such taverner's house; notwithstanding such taverner may on the trial prove the sale and delivery of spirituous liquors to more than that value and amount.

Passed June 14, 1791.

AN ACT to prevent the spreading of the Small-Pox, for Passed Feb-
3, 1789.
*allowing Hospitals to be erected under certain restric-
tions, and to repeal an act, entitled, "An act pro-
viding in case of sickness." Also an act, entitled, "An
act to prevent the spreading of the Small-Pox in this
State."*

WHEREAS the salutary purposes of the laws providing in cases of sickness, and for preventing the spreading of the small-pox in this state, are not sufficiently answered thereby; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the before recited acts be, and they hereby are repealed; and that the justices of the inferior court of common pleas in the respective counties in this state, shall, on proper application to them made, grant a license for one or more buildings to be erected, or improved for the purpose of inoculating persons for the small-pox in any town, parish or place within this state, under such regulations as they may think proper, provided the consent of the town, parish or place can be previously obtained therefor. Justices of in-
ferior court
to license
hospitals.

SECT. 2. *Be it enacted,* That the justices aforesaid shall, and may from time to time, license such physician or physicians to take care of, and superintend such hospitals as they shall think proper, and that the physician and physicians, so from time to time licensed, shall give bond to the justices aforesaid, in the sum of one thousand pounds, for the faithful discharge of the trust reposed in them, and that they will take every precaution, and use all means in their power to prevent the spreading of said disorder, and that they will not inoculate and suffer any person to have the small-pox in any other place, than the hospital or hospitals licensed as aforesaid, or willingly suffer the same to be done. Physicians of
hospitals.

SECT. 3. *And be it further enacted,* If at any time it shall happen that the small-pox shall break out in any town, parish or place, in this state, the selectmen of such town, parish or place, or the major part of them, may remove any persons infected to any place where permission may be obtained from such justices, or where there is no hospital appointed, to any place remote from inhabitants, provided that no person or persons shall in any case whatever, be removed, unless the physician attending him, her or them so infected, shall be of opinion that such removal will be safe, and no ways dangerous to the life of such person or persons. Selectmen to
remove per-
sons infected

SECT. 4. *And be it further enacted,* That if any person from and after the passing of this act, shall with intent to spread the small-pox, and communicate the same Penalty for
spreading
small-pox

to any person, bring any infectious matter into the state, or shall use such infectious matter so as to communicate the same, or shall presume to inoculate him or herself, or any other person with the small-pox, or shall be inoculated therefor, each person so offending, shall pay a fine of fifty pounds lawful money, to be recovered by bill, plaint or information before the superior court of judicature within this state, the one half thereof to the use of the informer or prosecutor, and the other half to the use of the town where such offence shall be committed.

Fine for inoculating without license.

SECT. 5. *And be it further enacted*, That if any physician or physicians, or other person not licensed as aforesaid, shall presume on any pretence whatever, to inoculate any person or persons with the small-pox, the person so offending shall pay a fine of one hundred pounds, to be recovered and appropriated as in this act is above provided.

Masters of vessels to give notice of small-pox on board.

SECT. 6. *And be it further enacted*, That if any person or persons, seamen or passengers belonging to, or on board any vessel arriving at any port or harbour within this state, shall be infected with the plague, small-pox, pestilential or malignant fever, during the voyage, the commander of such ship or vessel, shall immediately on his entrance into such port or harbour, cause his vessel to be anchored and give information thereof to the commanding officer of fort William and Mary, if the vessel happens to be in Piscataqua harbour, or in case of the vessel's being in any other port, to the nearest field officer of the militia, whose business it shall be immediately to notify the president, or in his absence two of the council, and receive their directions. And if the commanding officer shall suffer any person or thing to be landed, or set on shore out of said vessel, without permission obtained either from the president, or in his absence from two of the council, he shall forfeit and pay the sum of one hundred pounds, to be recovered and appropriated as aforesaid. And if any person who may come in such vessel, either as seaman or passenger, shall presume to come on shore before license is obtained as aforesaid, he shall forfeit the sum of fifty pounds to be recovered and applied as aforesaid.

This clause [section] repealed by act of 25 Dec. 1792.

Passed February 3, 1789.

Passed Dec. 25, 1792.

AN ACT for the repeal of a certain clause of the act for preventing the spreading of the Small-Pox, made and passed the third day of February, Anno Domini 1789. and in addition to, and amendment of the said act.

WHEREAS the last clause of the aforementioned act, hath been found not to answer the good purposes thereby intended; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the said last clause be, and the same is hereby repealed.

Repealing
clause.

SECT. 2. *And be it further enacted,* That whenever any ship, or other vessel shall arrive in any port in this state, having any person on board infected with the plague, small-pox, pestilential or malignant fever, or shall have been so infected during the voyage, or having on board any goods which may reasonably be apprehended to have any infection of such diseases, it shall be the duty of the master or commander of such ship or vessel to give immediate information thereof to the selectmen of Portsmouth, and it shall be the duty of the selectmen of Portsmouth, upon information of the arrival of such ship or vessel, and they are hereby empowered immediately to take such prudential methods and precautions as to them appear necessary, to prevent the spreading such infection, and may order and appoint the distance at which such ship or vessel shall lie from the shore, and shall have power to remove the same at the expense of the owner or master, if the master or commander shall refuse or neglect to remove after receiving from said selectmen an order therefor—and the said selectmen are hereby further empowered to forbid or prevent any person coming on shore from such ship or vessel, or any goods being landed from the same until such precautions be taken as the publick safety may to them appear to require. And if the commanding officer of any such ship or vessel shall suffer any person or thing to be put on shore without permission first obtained therefor, under the hands of the said selectmen, or a major part of them, he shall forfeit and pay the sum of four hundred dollars, to be recovered and appropriated as in the aforementioned act is provided for the recovery and appropriation of forfeitures.

Masters to
give infor-
mation.

Duty of se-
lectmen.

No person or
thing to be
landed with-
out permis-
sion.

Penalty.

SECT. 3. *And be it further enacted,* That if any person come on shore from any such ship or vessel without such liberty, any justice of the peace may cause such person to be confined in such proper place as the selectmen aforesaid may appoint, for a term of time not exceeding thirty days, at his own expense, to be recovered by them, by action of debt in any court proper to try the same.

Justices of
peace may
confine, &c.

SECT. 4. *And be it further enacted,* That the said selectmen shall have full power to seize and keep any goods landed from such vessel, without such leave, until they shall cause the same to be cleansed at the expense of the owner of such goods—and if the owner neglect to pay such expense, the selectmen shall have power to sell so much of the goods as will defray the reasonable charges of seizing, keeping and cleansing the same.

Selectmen
empowered to
seize goods.

SECT. 5. *And be it further enacted,* That it shall be part of the condition of the physician's bond taken in pur-

Physician's
bond.

suance of the act aforesaid, that he will use every precaution to prevent the spreading the small-pox, and will not suffer any person to depart from the hospital until he be effectually cleansed, and will then give such person a certificate thereof under his hand.

Penalty for
not having
a certificate.

SECT. 6. *And be it further enacted*, That if any person after having had the small-pox, in any licensed hospital, shall leave the same without such certificate, or be taken or found without the same within one month afterwards, he shall forfeit and pay the sum of fifty dollars, to be sued for, and appropriated in manner aforementioned.

Proviso

Provided always, That whenever any person shall break out with the small-pox in the natural way, in any town within this state, and in the opinion of the selectmen, he may without danger remain without communicating the disorder to any but his own family—and if the family or any other person has been exposed to the danger of taking said disorder, the selectmen may grant license for any such person to be inoculated, who with the physician shall not in such case be liable to the penalties of this and the aforementioned act.

Passed December 25, 1792.

Passed April
6, 1781.

AN ACT to regulate the proceedings for extinguishing fires that may be accidentally, or otherwise kindled among buildings, to prevent the keeping fires in unsuitable houses and places, to preserve goods endangered by such fires, and to remove or demolish buildings judged to be dangerous to the publick safety.

WHEREAS it frequently happens when buildings contiguous take fire, that the people assembled to extinguish it, proceed without order or regularity, whereby the end in view is often defeated. And as goods at such a time are inevitably exposed to plunder, some hardy evil minded persons take advantage of the calamity and steal such goods, whereby the loss of such sufferers is increased; and the laws of this state respecting the proceedings to extinguish fires, &c. being found ineffectual for the purposes for which they were made; Therefore,

Repealing
clause.

SECT. 1. *Be it enacted by the council and house of representatives for said state, in general assembly convened*, That all and every law of this state, and every clause therein respecting the extinguishing such fires, and proceedings thereat, be, and hereby are repealed and declared null and void.

SECT. 2. *And be it enacted by the authority aforesaid*, That the freeholders and other inhabitants of Portsmouth, in the county of Rockingham, and state aforesaid, being qualified voters, may at their annual or other legal town meeting, choose and appoint any suitable number of free-

holders therein, being persons of approved ability and fidelity, who shall be denominated firewards, and have for a distinguishing badge of their office, a staff of five feet long, painted red, and headed with a bright brass spire six inches long. And the firewards aforementioned, are hereby required, upon notice of the breaking out of fire in said town, to take with them the badges of their office, and immediately repair to the place where such fire may be, and vigorously exert themselves, and require and demand assistance of any inhabitants of said town, to extinguish and prevent the spreading of such fire, and to remove goods and effects out of any houses or places endangered thereby. And the firewards may appoint necessary guards to secure and take care of such goods and effects.

Firewards

Their badge and duty.

And the said firewards are hereby empowered to require and demand assistance from said inhabitants to pull down, blow up, or remove any house or buildings, provided it shall be thought necessary by a majority of the firewards then present, for the preventing of the spreading and progress of such fire; and they are hereby empowered to suppress with force, if necessary, all tumults and disorders, and to order and direct the labour of all persons present during the continuance of the fire; and the inhabitants aforesaid are hereby required to yield due obedience thereto. And if any such inhabitant shall refuse or neglect to obey the orders of such firewards, or any of them in a time of fire, acting within his limits, and in a matter whereunto his office relates, such offender shall upon due conviction thereof pay a fine not exceeding ten pounds; provided such offender be prosecuted therefor within six months from the time of committing the offence.

Their power.

Inhabitants duty.

SECT. 3. *And be it further enacted*, That if any person shall assume the office of a fireward, not being thereunto legally chosen as aforesaid, or shall use the badge aforesaid, he shall be liable to pay a fine of fifteen pounds.

Penalty for assuming the office.

SECT. 4. *Be it further enacted*, That if any evil minded person or persons, shall take advantage of such calamity to plunder, embezzle, convey away, or conceal any goods or effects of any inhabitant of, or resident in said town at the time of such fire, and shall not restore or give notice thereof to the owner or owners, if known, or bring said goods or effects to some place appointed by the firewards, within the space of five days after proclamation for that purpose, the person or persons so offending and being convicted thereof, shall suffer the same pains as by law provided in case of theft; and the penalty of ten fold the value of the goods so plundered, embezzled or concealed.

Penalty for plundering in time of fire.

SECT. 5. *And be it further enacted*, That the major part of such firewards, present at any such fire, are hereby empowered to cause any houses or buildings to be pulled down, blown up, or removed as they shall judge necessary

Firewards may cause buildings to be razed.

Compensation to owners in case.

to stop the progress of such fire. And if by destroying any such houses or buildings as aforesaid, the fire shall be stopped, or if the fire shall be stopped before it reach the same, every owner of such house or building shall receive a reasonable satisfaction for the damages sustained thereby, to be paid by the other inhabitants of said town; to which end the selectmen of the town for the time being, on application, are hereby ordered to compute and adjust the value of said house or building, and the damage sustained by the destruction thereof as aforesaid, according to equity; and to assess the polls and estates in said town liable to make good such value and damage, in a just proportion as for other town taxes, which shall be levied as other town taxes are. And if such selectmen shall refuse or neglect to adjust said damages, or to make adequate compensation for such loss, the party aggrieved may apply to the court of general sessions of the peace for said county, at the expiration of three months after such damages sustained, for redress; which court are hereby empowered to support, hear and determine such complaint, and give judgment thereon according to equity; and in case they find the complaint just, shall render judgment for the complainant for adequate damages and costs, for which they shall assess the said inhabitants, except the complainant, in manner as the law directs the selectmen to do for other town rates, which shall be levied and collected in the same manner as other town taxes, and paid by the collector to the complainant. But it is to be understood, that if the house or building wherein or whereat the fire first began, be pulled down, or blown up by order of said firewards, or when any other house or building shall be pulled down or blown up by order of said firewards to stop the progress of the fire, and it is not stopped thereby, and it appears to the firewards that the same must have been absolutely burnt had it not been pulled down, or blown up; in such case the owner of any such house or building shall not be entitled to such compensation as aforesaid.

Application to sessions.

Firewards to view houses, &c.

SECT. 6. *Be it further enacted*, That the firewards of said Portsmouth, or the major part of them, are hereby empowered to inspect and search all houses and places within their limits, wherein they apprehend any danger may arise for want of repairs of buildings or chimneys, or from not laying a good foundation for fire places, or by reason of bad chimneys, or hay, or other combustible matter being so near, or so exposed to fire, as to be likely to take fire thereby and communicate it, in all, or any of which cases, it shall be the duty of the said firewards to inspect and search as aforesaid, and to order the owner or occupant of any such dangerous houses, chimneys or places to make such amendments, repairs and alterations therein, as the said firewards shall judge necessary for the publick safety, which

shall be made accordingly within thirty days (unless the firewards think fit to lengthen that time) from the time of giving notice to the owner or occupant. And if the same shall not be done according to such order, then the said firewards, or major part of them, are hereby empowered to cause the same to be done, and the selectmen of said town for the time being, are hereby required to furnish money for that purpose. And the said selectmen in behalf of the town, shall have and maintain an action against the owner or occupant aforesaid, for the money so advanced, and the reasonable services of said firewards in causing the same to be done; in which action the said selectmen shall recover double costs. And every such decayed building in which the owner does not dwell or occupy, which said firewards apprehend to be dangerous, and not worth repairing, they may cause the same to be demolished at the cost of the owner or occupant, to be recovered as aforesaid; but the materials shall remain for the use of the owner, except when the owner or owners live out of this state, and there is no occupant in said decayed and dangerous buildings, the charge of demolishing such buildings shall be defrayed by sale of the materials; and the overplus money (if any) after deducting said charge and expense of sale, shall be deposited in the hands of the selectmen of said town, for the use of said owner or owners.

and order repairs.

Firewards may make repairs at the charge of the owner where he neglects.

Buildings not worth repairing to be demolished.

And any tenant who shall be obliged to pay any sum of money by virtue of this act, where his lessor ought to have paid the same, shall be allowed for the same out of the rent of the tenement he holds, and may justify the withholding so much from the owner or person to whom the same is payable, unless the parties concerned shall otherwise agree and adjust the matter.

Owners of such buildings to pay the costs.

SECT. 7. *And be it further enacted,* That every house of two stories high, which has four fire-places, shall be provided with one leather bucket; every such house having six fire-places, shall be provided with two such buckets, and having eight or more fire-places, with four buckets as aforesaid, fit for and to be used in the case of the breaking out of fire; which buckets shall be provided and constantly kept for the use aforesaid, at the charge of the owner of every such house. And every house shall have thereon a good secure ladder or ladders, reaching from the ground to the ridge-pole, provided by the owner or occupant; and if provided at the charge of the occupant to be allowed as aforesaid. And if any person or persons shall neglect to provide and keep said buckets and ladders as before required herein, each person so offending shall pay two pounds for every three months neglect therein. And the said firewards are hereby authorized to examine and determine as to the observation and compliance with this act, and shall be allowed as competent witnesses in any suit that may be

Buckets to be provided.

commenced for any forfeiture incurred by virtue of this act. And all such fines and forfeitures shall be applied by the firewards to purchase tools and instruments proper to be used at such fires as may accidentally, or otherwise happen in said town.

And whereas it may not be necessary at present to oblige the owners of houses situated at a distance from the compact part of said town, though within the limits thereof, to provide buckets as this act directs.

And whereas there may be some persons within the compact part of the town unable to procure such buckets within the time prescribed :

Firewards to
excuse where
they judge
proper.

SECT. 8. *Therefore be it enacted,* That it shall be in the power of the firewards as they shall judge proper, to excuse the owners of any such detached houses from providing such buckets; and also to grant a further time, not exceeding one year, to such persons living in the compact part of said town, as the firewards shall judge unable to procure such buckets at present, and to substitute other kind of buckets for that end in the mean time.

That all fines and penalties inflicted by this act, be deemed and taken in silver money at the rate of six shillings and eight pence per ounce, or the value thereof in any current paper bills of credit.

SECT. 9. *And be it further enacted,* That any town or towns in this state, at their annual meeting, or any other meeting called for that purpose, may adopt the aforesaid act; in which case it shall be considered to extend to such town or towns adopting the same, as fully to all intents and purposes as to the town of Portsmouth.

Passed April 6, 1781.

Passed June
17, 1794.

AN ACT in addition to, and altering of an act, entitled, "An act to regulate the proceedings for extinguishing fires that may be accidentally or otherwise kindled among buildings; to prevent the keeping fires in unsuitable houses or places, to preserve goods endangered by such fires, and to remove or demolish buildings judged to be dangerous to the publick safety.

WHEREAS the said act is found by experience to be deficient :

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That instead of the time limited in said act for the firewards to give notice in certain cases therein expressed, they are hereby authorized to give notice for such time as in their opinion the exigency of the case may require, and after such notice may proceed as in said act is provided.

Firewards to
give notice.

SECT. 2. *And be it further enacted,* That the said firewards shall have the same power with respect to houses or places within their limits where the owner is not known, or no person claims to be owner, whether occupied or not, as by said act they have in other cases; the expense of repairs to be defrayed by the rents of said building or buildings, which the selectmen are hereby empowered to receive until they are reimbursed the necessary expense, in case of demolition, that the expense be paid by sale of the materials, and the overplus (if any there be) be retained in the hands of the selectmen for the use of the owner or owners, if applied for within one year, otherwise to be for the use of the town.

Shall have the same power where the owner is not known

SECT. 3. *And be it further enacted,* That all pitch-pots and other fires kindled in improper places, on the wharves or elsewhere, shall be under the inspection of the said firewards, who shall have power to remove or extinguish them, as the publick safety may require.

To remove fires on wharves, &c.

Approved June 17, 1794.

AN ACT in addition to "An act, to regulate the proceedings for extinguishing fires, that may be accidentally or otherwise kindled."

Passed Nov. 30, 1803.

WHEREAS the acts, heretofore made for extinguishing fires, are found not to answer every purpose for which they were designed; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That it shall be the duty of the firewards, or the major part of them, within the town of Portsmouth, or any other town where firewards are chosen, to make such rules and regulations not repugnant to any law of this state, for preventing fires, or for clearing away shavings, chips, or any combustible matter that may be thought dangerous, from any house, store, workshop, wharf, or street, as they in their judgment may think proper. And the said firewards shall have full power to annex such fines and penalties for the breach of any one, or all, of those rules and regulations, as may be necessary, not exceeding twenty dollars for each offence.

Duty of firewards.

To annex fines.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That any person may sue or prosecute any one, for a breach of any of those rules or regulations so made, before any court of competent jurisdiction to try the same, in an action of debt; one half of which fines shall go to the prosecutor, and the other half to be applied for the use of the engines within the town where the offence is committed.

Any person may prosecute.

Approved November 30, 1803.

Passed Feb.
28, 1783.

AN ACT to regulate Ferries.

WHEREAS the demands of ferrymen within this state, for carrying the subjects thereof, and others, their horses, cattle and carriages, across the rivers in the same state, are exorbitant and arbitrary, and many of said ferrymen neglect giving due attendance on passengers: Also the boats of some are out of repair;

For remedy whereof,

Sessions to
regulate the
rates of ferri-
age.

SECT. 1. *Be it enacted by the council and house of representatives, in general assembly convened, and by the authority of the same,* That the justices of the courts of general sessions of the peace in every county, having therein a ferry or ferries, throughout this state, may, and they are hereby required, in their court of sessions, to estimate and ascertain the rates of ferriage in all its branches, for each particular ferry in such county, which being done, the same shall be entered in the clerk's book in every such county, and the said justices are further required to cause a copy of such order of court touching said rates, to be served on every ferryman in each such county (at the charge of the same) who shall affix such list of rates, in some conspicuous place in his house, where every passenger may have access thereto. And every ferryman shall be governed by such order of court, and take no more for any particular service than the sum therein mentioned.

Ferryman
taking more
than the rate
specified to
pay damages.

SECT. 2. *And be it further enacted,* That if any ferryman shall demand and receive for any service before mentioned, a greater sum of money than in the before mentioned order of court specified, and if any suit shall be commenced by any person aggrieved, for the overplus, before any justice of the peace in the county where the offence shall arise, and judgment be rendered for the plaintiff, such justice shall give judgment against the defendant* for damages and cost of suit.

Ferryman to
keep good
boats.

SECT. 3. *And be it further enacted,* That every ferryman within this state, shall keep a good boat or boats in good repair, suitable to the waters they are to ferry over, and also shall give ready and due attendance on passengers, upon all occasions, on penalty of twenty shillings for every default in attendance, and for want of such sufficient boat or boats as aforesaid, to forfeit and pay the sum of forty shillings, one half to the county wherein the offence shall arise, and the other half to him or them who shall inform or sue for the same, to be recovered either in a summary way before a justice of the peace, in each respective county, or at a court of general sessions.

Passed February 28, 1783.

* *Deft* in the original.

AN ACT for laying out Highways.

Passed Feb
8, 1791.[Sept. 15,
1792.]Selectmen to
lay out high-
ways.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That at any time hereafter when there shall be occasion for any new highways or private roads, to be laid out in any town or place in this state, the selectmen of such town or place, be, and hereby are empowered, on application made to them, if they see cause, to lay out the same, whether such highway or road be for the benefit of the town, or publick in general, or for the benefit of the person or persons applying only; and if such road be for the benefit of the town or publick, due recompence shall be made by the town to the owners of the land through which such road is laid out, for all damages such owners sustain thereby; and if such road be only for the benefit of an individual or individuals applying for the same, then the recompence shall be made by such individual or individuals; and no road shall be returned and recorded for the benefit of individuals only, unless the damage done to the owners of the lands through which the same is laid out, be ascertained and paid, or tender thereof be made.

And in case there be occasion for any new highway to be laid out from town to town, through several towns, and such towns cannot agree as to the place of laying out the same; or in case there should be occasion to lay out a highway through a tract of land unincorporated, in any county in this state, the court of general sessions of the peace for such county, on petition to them for that purpose, shall in such manner as they shall think proper, lay out the same, and a record thereof shall be made. And the committee of the said court who lay out any such highway, shall also estimate the damage done to any owner of land, through which the same is laid out, and such damage shall be paid by the town, in and through which such highway is laid out. Provided that the selectmen of such towns shall be duly notified by the sessions of any such petition for a highway, before the same shall be laid out, and when the way petitioned for, or any part thereof, shall run through lands unincorporated, the substance of the petition and order of court thereon, shall be published in such newspaper as the said court shall order, three weeks successively, that the owner of such land, through which the highway is petitioned to be laid out, may object thereto.

Court of ses-
sions to lay
out highways
thro' several
towns.

SECT. 2. *And be it further enacted,* That in case the selectmen of any town refuse or neglect, when petitioned to lay out any highway, the court of general sessions of the peace, on petition exhibited to them, may, if they think it proper, cause such highway to be laid out: Provided always, that the selectmen of such town shall be duly notified before any such highway be laid out.

Sessions to
lay out high-
ways where
selectmen ne-
glect it.

And any person who may think himself aggrieved by the selectmen in not making sufficient allowance, or in not paying for any highway laid out through his land, may apply, by petition, for redress, to the court of general sessions of the peace, which court may inquire into the same by a committee, and order such redress, as they may on hearing the parties, or such of them as may attend on due notice given, think proper. And the said court, in all cases of application to them, may order either of the parties, as they may think just, to pay costs : and in all cases may issue execution for damages and costs, or costs only, as in other cases.

Provided always, That the costs of laying out highways from town to town, or through lands not incorporated, on original application made to the sessions, shall be paid by the county.

Towns may
discontinue
highways.

SECT. 3. *And be it further enacted,* That the inhabitants of any town in this state, at any legal meeting, holden for that purpose, may discontinue any highway laid out by order of any such town, or the selectmen thereof, and where such way was laid out by the court of general sessions of the peace, then with the consent of such court, but not without, and may sell the land taken up in such highway, or exchange the same for some other land where a highway may more conveniently be laid out and occupied. And they may also sell or exchange any land left or appropriated in such town for highways, though not actually improved for that purpose, in the same manner as they may sell or exchange the land of highways improved or occupied.

Passed February 3, 1791.

Passed Dec.
28, 1803.

AN ACT empowering the selectmen of any town in this state to make roads and streets wider and straighter.

Selectmen to
make roads
wider and
straighter.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That at any time hereafter, when there shall be occasion to make any of the roads or streets in any town in this state wider or straighter, the selectmen of such town be, and hereby are, empowered, if they see cause, to make the same wider and straighter, in such places, and in such manner as they shall think proper ; and the said selectmen shall also estimate the damage done to any owner of land, annexed by them to any road or street, for the purpose of widening or straightening the same, and such damage shall be paid by the said town : *Provided,* That such selectmen shall in all cases notify the owner or owners, or tenant in possession, of such lands as they may appropriate for highways, previous to their laying out the same, or estimating the damage ; provided such owner or tenant live within such town.

Proviso.

SECT. 2. *And be it further enacted,* That in all cases, ^{Return} when the selectmen of any town in this state shall make any of the aforesaid alterations in any highway, they shall make return of the same to the town-clerk, who shall record the same; and any person, who may think himself aggrieved, by not having a sufficient allowance made him by the selectmen of any town for damage he may sustain, may apply by petition to the next court of common pleas, to be holden in the county where said town lies, which court may inquire into the same, and order such damages as they may, on hearing the parties, or such of them as may attend, on due notice given, think proper; and the said court in all cases of application to them, may order either of the parties, as they may think just, to pay cost, and in all cases may issue execution for damages and costs, or costs only, as in other cases.

Approved December 28, 1803.

AN ACT in addition to an act, entitled, "An act for ^{Passed Dec.}
laying out highways." ^{11, 1804.}

BE it enacted by the senate and house of representatives, in general court convened, That whenever application shall be made to any court of common pleas hereafter in this state, to lay out any road or publick highway, where the same application hath been refused by the selectmen of any town, that the court applied to, shall cause an order of notice to be served on the selectmen so refusing, that they be heard before said court, upon the subject of said petition, before the prayer thereof be granted.

Approved December 11, 1804.

AN ACT for mending and repairing the highways in ^{Passed Feb}
this State. ^{27, 1786.}

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That every town and parish within this state, invested with town privileges, shall at their annual meetings in the month of March, or at any other legal meeting, vote such sum of money as they shall think proper for making, mending and repairing the several highways and bridges in said town or parish for that year. And the selectmen of said towns and parishes are hereby ordered to make an assessment upon the polls and estates of the inhabitants, of their respective towns and parishes, in the same manner as for the state tax; and said towns and parishes, may, at their said meetings, choose as many surveyors of highways as they may think proper; and the selectmen shall, on or before the first day of June

<sup>Towns to
raise money
for repair of
highways.</sup>

^{Surveyors.}

next after the choice of such surveyors, limit their several districts, and give to each surveyor a list of each person belonging to his district, and of their respective proportion of the sum voted to repair the highways as aforesaid. And the towns and parishes, may at the time of voting said money, affix the price of the several sorts of utensils and materials to be employed about said highway for that year, as also the price of labour; and if they neglect it, the said prices to be set by the selectmen. And the surveyors are directed to warn the several inhabitants of their respective districts to work on said ways, each man his proportion of said sum at the prices affixed; and every surveyor shall give four days notice (which notice shall be personal, or left in writing at the parties last and usual place of residence) to every person he shall warn of the time and place, and tools, when, where and with which such person shall attend; except in cases of sudden emergencies, as the repairs of bridges, and making paths in deep snows, which may require immediate remedy; in which cases, it may and shall be lawful for the surveyor to warn them, or any of them to attend forthwith. And if any person shall refuse or neglect to work, or send a sufficient hand (unless he shall make a reasonable excuse to said surveyor within four days after the time set for said labour, in which case he shall be notified to work at some other time) the said surveyor is hereby authorized and required to levy the delinquent's part or proportion of said money by distress, in the same manner as the several constables and collectors are enabled by law to do in collecting the state tax. And the surveyors are hereby directed to settle accounts with, and pay the balance, if any there be in their hands, to the selectmen or town treasurer, agreeable to the warrants or directions given them for that purpose; and if any of the surveyors refuse or neglect their duty herein, the selectmen or treasurer for the time being, are hereby authorized to proceed with such surveyors in the same way and manner, as they are by law authorized to proceed with constables or collectors, who are delinquent in collecting and paying the taxes committed to them to collect.

And whereas it may happen that by some unforeseen accident, as the decay of bridges, or their being carried off by freshets, the sum allotted to any particular district may prove insufficient.

Selectmen
may order
surveyors in-
to other dis-
tricts.

SECT. 2. *Be it enacted by the authority aforesaid,* That in all such cases, the selectmen may order the surveyor or surveyors of any district or districts, with such persons in his or their list, as have not worked out, or satisfied their respective rates, to work where such accident shall happen.

And whereas the surveyors of highways are annually chosen in the month of March, and sometime elapses be-

fore the selectmen can set off their districts, and make their list of rates so as to enable them to enter on the duties of their office :

SECT. 3. *Be it therefore enacted,* That the surveyors of highways, shall hereafter be considered as beginning their office, the first day of June next following their appointments in March, and to continue in office for the term of one year from the time of beginning said office.

When surveyors shall begin their office.

SECT. 4. *And be it further enacted,* That in case any special damage shall happen to any person or persons, or to his or their teams or carriages, by means of the insufficiency or want of repairs of any highways or bridges, in any town or parish within this state, the party aggrieved shall recover his or their damage, in an action against such town or parish. And the said town or parish shall have a remedy over against any surveyor or surveyors through whose fault or neglect the same happened ; and surveyors of highways are hereby authorized and empowered to purchase, at the cost and charge of their respective towns and parishes, all such timber, plank and other materials, as are necessary for mending and repairing the highways and bridges in their respective districts.

Remedy for damage done by bad highways or bridges.

And whereas many persons within this state, make a practice of unloading and laying down in the streets or highways, masts, spars, mill-logs, boards, plank, timber and other lumber, firewood, and rocks for building, to the great incumbrance of said streets and highways, so as to render them almost or altogether impassable : For prevention whereof,

SECT. 5. *Be it further enacted, by the authority aforesaid,* That in any of the cases afore-mentioned, the surveyor of the district, where any such incumbrance shall be, shall make complaint in writing to some justice of the peace for the county, dwelling in the same town, or in one of the next adjacent towns to the place where the offence is committed ; which justice, upon his own view of such incumbrance, shall and may, by warrant under his hand and seal, directed to such surveyor, cause the same immediately to be removed so far as the said justice may judge necessary for the publick good ; and may, and shall also therein order so much thereof to be sold by such surveyor, as shall be adjudged by said justice, necessary to pay the legal costs which said justice shall tax, and three times the price of the labour of removing the same, which labour shall also be estimated by said justice. And all highways already laid out, or hereafter to be laid out through any tracts of land not incorporated, shall be made passable and kept in repair by the owner or owners of the lands through which they run, and all the proprietors or owners of any unincorporated tract of land holding under one title, whether the same be a tract held under a grant or charter from the crown of Eng-

Incumbrances on highways.

See act of 20 June 1806. P. 391.

Highways through land not incorporated to be repaired by owner of such lands.

New high-
ways laid out
thro' unincor-
porated
lands.

land, made by any of the late governors of New-Hampshire, or by any deed, grant or charter from the proprietors of the land purchased of John Tufton Mason, Esq. or any tract of land held in common and undivided by said last mentioned proprietors, or any tract divided and severed by them among themselves at any one time, so far or so much thereof as may remain unincorporated, shall be considered as held to pay their proportions, according to their interest, of all cost of making or repairing the highways through any part of said tract. And the court of general sessions of the peace, whenever they shall cause any new highway to be laid out through such unincorporated tract of land, shall cause an advertisement thereof, to be printed in one of the New-Hampshire newspapers, four weeks successively, expressing the return, or laying out of such highway, and requiring the proprietors of the land to make the same passable within such reasonable time as the said court shall therein prefix. And in case the same shall not be complied with, to the satisfaction of the court, the said court shall proceed to assess the said tract of land at so much per acre as they may judge necessary to repair said highway through the same. And the treasurer of such county shall forthwith cause such tax to be advertised in manner aforesaid, requiring each and every of the owners of any part of said tract, to pay said tax to said treasurer, in sixty days from the first publishing said advertisement, or that the same will be sold at vendue, at a certain day and place. And every owner of any part of said tract, shall pay said tax for his part of said tract, and take a receipt describing the land for which he pays. And the remaining part of said tract for which the said tax is not paid by the expiration of said sixty days, may be sold by such treasurer, or his successor, at publick vendue, at the time and place that shall be set forth in said advertisement, or so much thereof as may be necessary to pay said tax, with incidental charges ; and such treasurer or successor, is hereby authorized to make and execute a good deed or deeds thereof, allowing the same time for redemption as is by law allowed in other cases of land sold for taxes ; and the money so raised, shall be applied by said court, or by a committee appointed by them for that purpose, to make and repair said highways. And a similar method shall be taken from time to time by said court, for keeping in repair all highways running through lands not incorporated, in case the owners of such lands shall neglect the same. And the proprietors and owners of the aforesaid unincorporated tracts of land, are hereby authorized to call meetings for the purpose of voting such sums of money from time to time, as they may think necessary for making and repairing said highways, and choosing officers for levying and collecting the same, as fully to all intents and purposes, as proprietors of common and undivided lands are by law authorized to do.

Passed February 27, 1786.

*AN ACT in addition to, and amendment of an act, en- Passed June
titled, "An act for mending and repairing highways in this state." 20, 1806*

WHEREAS the first clause in the fifth section of said act is found to be insufficient for the purposes thereby intended ; which clause is in the following words, viz. " And whereas many persons within this state make a practice of unloading and laying down in the streets or highways masts, spars, mill logs, boards, plank, timber and other lumber, firewood and rocks for building, to the great incumbrance of said streets and highways, so as to render them almost or altogether impassable : for prevention whereof, Be it enacted by the authority aforesaid, That in any of the causes* aforementioned, the surveyor of the district, where any such incumbrance shall be, shall make complaint in writing to some justice of the peace for the county, dwelling in the same town, or in one of the next adjacent towns to the place where the offence is committed ; which justice, upon his own view of such incumbrance, shall and may, by warrant under his hand and seal, directed to such surveyor, cause the same immediately to be removed, so far as the said justice may judge necessary for the publick good ; and may and shall therein order so much thereof to be sold by such surveyor, as shall be adjudged by said justice necessary to pay the legal cost,† which said justice shall tax, and three times the price of the labour of removing the same ; which labour shall also be estimated by said justice." But, in case the said articles of incumbrance should be of little or no value, and should not sell for a sum sufficient to pay and discharge the sum adjudged by the said justice for the price of the labour, and the cost taxed as aforesaid, no provision is made in said act for the recovery of the same :—Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That in all cases when the said articles of incumbrance, removed by any surveyor as aforesaid, shall not sell for a sum sufficient to pay and discharge the cost taxed, and three times the price of the labour of removing the same, estimated by the justice as aforesaid, the said surveyor shall be entitled to recover the same, or such part thereof as shall remain unpaid after the sale of such articles, of the person or persons who shall so encumber said highways, by action or plea of trespass in any court in the county where the offence shall be committed, competent and proper to try the same. And in like manner all other articles of incumbrance not before enumerated may be removed from the highways in this state. And all persons, who shall encumber said highways with such other articles, shall be liable to be prosecuted in the same manner

Surveyor how
to be compensated.

* This is cases in the act from which it is taken

† Costs in the act referred to.

as is herein before directed for offenders who encumber said highways with any of the articles enumerated as aforesaid.

Notice.

SECT. 2. *And be it further enacted, That it shall be the duty of such surveyor to give reasonable notice to any person leaving any incumbrance in the highway as aforesaid, to remove the same; and in case such person shall refuse or neglect so to do, the surveyor shall then proceed to remove the same as heretofore directed in this act, and shall follow the same rules and regulations in making sale of any such incumbrance, as collectors of taxes are directed to do in advertising and making sale of personal estate.*

Approved June 20, 1806.

Passed June
17, 1807.

AN ACT appropriating certain fines for the repairing of highways and bridges.

WHEREAS the laws now in force for making and keeping in repair highways and bridges within this state are found inadequate to the purposes intended thereby; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That all fines which shall hereafter be imposed by the superior court of judicature within this state, on any town for defect in making or repairing any highway or bridges within the same, such fine shall be appropriated and disposed of for the making and repairing the bridges and highways so defective as aforesaid.*

SECT. 2. *And be it further enacted, That the superior court shall, at the session when any such fine shall be imposed as aforesaid, appoint one or more person or persons to superintend the collection and appropriation of the same, for the purposes aforesaid: whose duty it shall be to attend to the collection of such fine, and the appropriation thereof in manner aforesaid: and shall make return of his or their doings therein unto said court, whenever by them thereunto required.*

Approved June 17, 1807.

Passed Feb
27, 1786.

AN ACT to prevent Encroachments upon Highways.

FORASMUCH as divers incumbrances and encroachments have been made, or hereafter may be made, in and upon the common roads, highways and streets, heretofore laid out, or which shall hereafter be laid out, within the several towns of this state; For remedy whereof,

Be it enacted by the senate and house of representatives in general court convened, That henceforth no edifice, building, or fence whatever, shall be raised, erected, built, or set up in, upon or over any of the said roads, highways, streets, lanes or allies within this state, or any part of any

Encroach-
ments

of them, whereby to straiten the passage, or any ways lessen the full breadth of any such roads, highways, streets, lanes or alleys; and if any edifice, building, or fence whatsoever, shall be raised, erected, built, or set up, or being erected, shall be continued upon, in or over any such road, highway, street, or alley, contrary hereunto, every such edifice, building or fence shall be deemed and held to be a common nuisance. And the court of general sessions of the peace within the county where such offence may be committed, upon indictment and conviction of the offender, are hereby empowered to order, and cause such edifices, buildings or fence to be taken down, demolished, and removed, and further, to punish the offender by fine, not exceeding ten pounds and costs of prosecution. *Provided, nevertheless,* That this act shall not be intended, or construed to intend the prohibiting the setting up of any conduit, watch-house, cage, or stocks, for the publick use, in or upon any highway or street within this state. And no person shall presume, wantonly or illegally to hurt or damnify any highways, causeways, or bridges, within this state, by destroying or taking away any of the plank, posts, timbers, or rocks thereof, or by digging any pits therein for gravel, clay, or any other cause whatever, upon the penalty aforesaid upon being convicted as aforesaid. But if the damage is supposed not to exceed the sum of twenty shillings, any justice of the peace for the county where the offence is committed, may take cognizance thereof, and on conviction punish the offender by fine, not exceeding forty shillings, and costs, with liberty to appeal to the next court of sessions of the peace for said county.

Sessions may order such nuisance to be removed.

No person to injure highways.

Provided, That this act shall not be construed to hinder the setting up of any gate, in or upon any highway leading through any meadow or intervale land, liable to freshets, as hath been customarily done.

Passed February 27, 1736.

AN ACT to establish Post-Guides, and to facilitate Travelling in and through this State.

Passed Dec. 17, 1792

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That for the accommodation of the citizens of this state, as well as for other persons who may have occasion to travel in and through the same, there shall be erected at the intersection of all publick roads and highways within each town, parish, and precinct throughout this state, a monument or post-guide at least ten feet high, which shall consist of materials of such angular form as shall correspond with the angle made by the intersection of the roads as aforesaid: and on each post-guide to be erected as aforesaid, or on the appendages thereof, shall

Post-guides to be erected.

be engraved or painted in legible characters, the name of the next adjoining town and towns, to which such roads respectively lead : as also the names of such other towns as may be thought proper with the estimated number of miles to all such towns respectively, in figures.* And an hand and finger shall be painted on the left of such letters as direct to a right hand road, and on the right of such letters as direct to a left hand road, and the number of miles so to be engraved or painted, shall be understood to be the distance to the most publick place of resort within the town against which such figures shall be made.

Superintend-
ents.

SECT. 2. *And be it further enacted*, That the selectmen of the respective towns and places to which they respectively belong, shall superintend the erecting and keeping in repair, all such post-guides at the expense of the towns respectively—Provided that the inhabitants of the towns, parishes and precincts respectively, duly qualified to vote in town affairs, may if they choose on or before the first day of June next, and annually afterwards, determine of what materials the said post-guides shall consist, and appoint suitable persons to superintend the erecting and repairing the same.

Penalty for
neglect of
duty.

SECT. 3. *And be it further enacted*, That if the selectmen, or other persons who may be appointed to superintend the erecting and repairing of post-guides as aforesaid, shall neglect their duty as herein prescribed for the space of twelve months from and after the first day of June next, or for the space of any four months after the expiration of said twelve months, they shall for every such neglect, pay a fine of twenty shillings.

And for de-
facing post-
guides.

SECT. 4. *And be it further enacted*, That if any person shall throw down, demolish or deface any such post-guide, appendages, letters or figures thereon engraved or painted, or be aiding and assisting in such offence, he shall pay a fine of thirty shillings.

Fines, how to
be recovered,
&c.

And all fines which may be forfeited in consequence of this act, may be sued for, and recovered by action, bill, plaint or information in any court proper to try the same. And all such fines shall be appropriated, the one half to the use of the prosecutor or informer, and the other half to the use of the town where the offence may be committed.

Passed December 17, 1792.

* In the original *figures* by mistake for *figures*.

Passed June
19, 1806.

AN ACT to authorize the Proprietors of Turnpike Roads and Toll Bridges to reduce their Toll.

BE it enacted by the senate and house of representatives, in general court convened, That the proprietors of turnpike roads and toll bridges, within this state, be, and they hereby

are authorized to reduce their toll as much as they shall think proper in all cases whatever. Proprietors may reduce toll.

Approved June 19, 1806.

AN ACT in addition to and amendment of certain acts heretofore passed, granting Turnpike Incorporations. Passed June 17, 1806.

WHEREAS impositions on the publick have taken place in consequence of the omission of the words "sleigh of burthen," after the word "sled," in several acts passed for the purpose aforesaid; for remedy whereof—

Be it enacted by the senate and house of representatives, in general court convened, That from and after the passing this act, every sleigh of burthen shall pay no more toll than is charged on a sled drawn by the same number of beasts, although the words sleigh of burthen are not inserted in said act or acts.

Approved June 17, 1806.

The above two acts are published with the general laws because they relate to *all such incorporations*

AN ACT for the suppression of Lotteries.

Passed June 12, 1807.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That if any person or persons shall undertake to set up any lottery, or expose to sale or dispose of any estate real or personal by way of lottery, such person or persons shall for every such offence forfeit and pay a sum not exceeding six hundred dollars, nor less than twenty-five dollars, according to the aggravation of the offence, to be recovered by an action of debt, in any court competent to try the same, in the county where the offence is committed; the one half thereof to the use of the prosecutor, and the other half to the use of the county wherein the offence was committed.

Penalty for setting up lotteries.

Recovered by action of debt.

SECT. 2. *And be it further enacted,* That if any person or persons shall be aiding or assisting in any lottery by printing or any other ways publishing an account thereof, or where tickets may be had for the same, such person or persons shall forfeit a sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered and disposed of in manner aforesaid.

Persons aiding or assisting.

SECT. 3. *And be it further enacted,* That if any person or persons shall offer or expose to sale, actually sell or otherwise dispose of to any person in this state any lottery ticket, such person shall forfeit a sum not exceeding three hundred dollars, nor less than ten dollars, for each ticket so exposed to sale or otherwise disposed of; the said forfeiture to be recovered in manner aforesaid and to the use aforesaid.—Provided always, That nothing in this act shall

Selling tickets.

Proviso. be construed to extend to any lottery allowed, or that shall hereafter be allowed by act or law of the legislature of this state or of the United States.

Repealing clause.

SECT. 4. *And be it further enacted, That a law for the suppression of lotteries, passed February fourteenth, one thousand seven hundred and ninety-one, be repealed on the first day of October, 1807, and that this act shall take effect on that day.*

Approved June 12, 1807.

Passed Dec. 9, 1797.

AN ACT for regulation of Mills.

Toll.

BE it enacted by the senate and house of representatives, in general court convened, That the owner of any grist-mill in this state shall be entitled to one sixteenth part of any kind of corn or grain, which shall be ground in his or her mill; and one sixty-fourth part for bolting, as a compensation therefor and no more; and if any owner of such grist-mill, or other person employed therein, shall take more than one sixteenth part of any corn or grain for grinding, or more than one sixty-fourth part for bolting, as a compensation therefor; he or they shall forfeit and pay for every quart of corn, grain, meal or flour so illegally taken, the sum of *fifty cents*, and so in proportion for a less or greater quantity; said forfeiture to be recovered by action of debt to the use of the owner of such corn, grain, meal or flour before any court proper to try the same.

Approved December 9, 1797.

Passed June 16, 1801.

AN ACT relative to the repairs of mills, mill-dams and fooms, owned by joint tenants, tenants in common, or occupied by two or more persons.

Repairs how to be made.

Duty of selectmen.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That all necessary repairs in any mill, mill-dam or floom, owned by joint tenants or tenants in common in this state, shall hereafter be made by such tenants, each contributing thereto in proportion to his interest therein, and in case any person shall neglect to make immediately the necessary repairs belonging to his part or share in such mill, mill-dam or floom, any one of the other tenants may apply to the selectmen of the town in which such mill, mill-dam or floom is situate, whose duty it shall be to notify the several owners or occupiers of the time when they will repair to the place, and if it shall be the opinion of the major part of the selectmen that repairs are necessary, they shall notify in writing the delinquent party to repair his part of the mill, mill-dam, or floom, within such term as they, considering the season of the year and the labour to be done, may think just and reas-

enable, and where the mill-dam or flooms have been divided and are owned in severalty, and the owners thereof shall be joint tenants or tenants in common of the privilege of the water, and the owner of any particular part of such mill-dam or flooms shall suffer his part thereof to go out of repair, any one of the other owners may apply to the selectmen in like manner, and the selectmen shall proceed in the same way to notify the parties as is herein directed, where mills, mill-dams or flooms are owned by joint tenants or tenants in common.

SECT. 2. *And be it further enacted*, That if either of the owners or occupiers as aforesaid, shall neglect to repair their part of the mill, mill-dam or flooms which belongs to him to repair, within the time so ordered and allowed by the selectmen as aforesaid, then the party aggrieved thereby and injured by such neglect, may build or repair the part of him so neglecting, and the said selectmen shall estimate and appraise the same, and thereto add their own fees, and shall express and set down such their appraisement, and the amount of their own fees in writing, and shall sign the same, and the person so building or repairing, shall have a right to demand, sue for, recover and receive the said amount of the occupant, lessor or freeholder of the mill, mill-dam or flooms which was out of repair at his election, together with costs of suit.

In case the owners neglect to repair, the aggrieved party may repair at the cost of owner.

Provided, nevertheless, That no such action be sustained for repairs as aforesaid, unless the occupant, lessor or freeholder as aforesaid, shall receive the benefit of such repairs.

Approved June 16, 1801.

AN ACT to prevent damage which may be done by Lumber to owners of Land lying on and adjoining any River in this State. Passed Dec. 28, 1805.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the fifteenth day of April next, if any lumber, such as spars, masts, or logs of any kind which have been or may be put into any river in this state, or into any stream running thereinto, and that may be by the waters thereof carried or lodged upon any improved land adjoining the same, and which may not be taken away by the owner or owners, his or their agent or agents on or before the first day of May annually, it shall and may be lawful for the owner or owners of such land to detain in his or their possession, all such masts, spars, and other lumber, until the owner or owners thereof, his or their agent or agents pay the owner or owners of the land so incumbered, all the damage sustained by reason of said lumber lying on his or their land as afore-

Owners of land may detain lumber until damage paid.

said. And in case the owner or owners of such incumbrance, or his or their agent or attorney, and the owner or owners of land so incumbered, shall not agree upon the damage sustained as aforesaid, the selectmen of the town where such land lies, or the major part of them, not being interested, shall adjust the same, but if a major part of such selectmen shall be interested, in that case, any three justices of the peace, in the county where such land lies, not interested, or a major part of them, shall adjust the said damage done as aforesaid, which adjudication shall be final and conclusive between the parties.

And may convert to their own use in case, &c.

SECT. 2. *And be it further enacted*, That if such incumbrance shall not be removed by the owner or owners thereof, or his or their agent or agents on or before the first day of November annually, then the owner or owners of such land so incumbered may take all such incumbrance and convert the same to his or their own use—Provided always, that when the owner or owners of any such spars, masts, and other lumber as aforesaid shall have paid the damage with cost as aforesaid, the owner or owners of all such lumber shall have liberty to remove the same from all such lands any time between the said first day of November and first day of May then next, any law, usage or custom to the contrary notwithstanding.

Penalty for stopping masts, &c.

SECT. 3. *And be it further enacted*, That if any person or persons shall stop any masts, spars or logs, and confine them in any place, so as to prevent the same from floating down any river or stream as aforesaid, that are or shall be marked with any owner's name or mark, or destroy, make use or dispose of the same, or cut out or deface any mark as aforesaid, otherwise than such as may become forfeit as provided in this act, he shall forfeit and pay to such owner or owners six times the value of said lumber, to be recovered in any court proper to try the same.

Former acts repealed.

SECT. 4. *And be it further enacted*, That an act, entitled, "An act to prevent damage which may be done by lumber to the owners of land lying on and adjoining Connecticut river and Merrimac river, passed January the fourth, one thousand seven hundred and ninety-two, and an act in addition to, and amendment of said act, passed June the seventeenth, one thousand seven hundred and ninety-four, also, the act in addition to, and amendment of said last mentioned act, passed June the fourteenth, one thousand eight hundred, be, and they hereby are repealed.

*Approved December 28, 1805.**

* This act as far as the same respects Connecticut river, was repealed from and after the 1st day of November, 1809, by act of June 10, 1808, p. 399.

AN ACT regulating the mode of putting Pine Timber in- to Connecticut River. Passed June 10, 1808.

WHEREAS the present mode of putting pine timber into Connecticut river, and letting it float at random down the same, does great injury to the mills, bridges and other works on said river, and is a great damage to the intervalles and meadows by lodging thereon, and also by wearing away the banks of said river, and besides is rapidly wasting and destroying said timber ; but is more particularly discouraging to, and almost wholly prevents the manufacture thereof in our own country ; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That from and after the first day of November, in the year of our Lord eighteen hundred and nine, all pine timber found floating in said Connecticut river, without being rafted, or under the immediate care and control of some person or persons ; and also all pine timber which by being put into said river without having been rafted, or under such control, shall be found on the banks or meadows adjoining said river, shall, and hereby is forfeited to any person who will take up the same—Provided, nevertheless, that nothing in this act shall be so construed as to forfeit any pine timber found as aforesaid, which shall have once been rafted, but shall by accident break away, or get out of the possession and control of the persons having the care of it ; but in all such cases the rightful owner shall be entitled to reclaim said timber, and continue to possess and own the same agreeable to law—provided said timber be reclaimed within ninety days after so breaking away.

Pine timber unrafted, found floating in Connecticut river,

Or on the banks or meadows adjoining said river, forfeited, &c.

SECT. 2. *And be it further enacted,* That from and after said first day of November, in the year of our Lord, eighteen hundred and nine, “ An act entitled, an act to prevent damage which may be done by lumber, to owners of land lying on, and adjoining to any river in this state,” passed December 28, A. D. 1805, so far as the same respects Connecticut river, shall cease and be of no effect. And also, an act, entitled, “ An act to prevent masts, spars and other timber being put into Connecticut river, without being rafted,” passed the 18 June, A. D. 1807, be, and hereby is repealed.

Repealing clause

Approved June 10, 1808.

AN ACT to prevent damages being done on salt marshes in Hampton, Hampton-Falls, Seabrook, and South-Hampton. Passed Feb. 15, 1794.

WHEREAS many owners of salt marshes within this state have suffered great damage from trespasses committed thereon, by persons clandestinely taking and carrying off from thence, by night, a certain weed (called flats weed) for the

purpose of manure, which is the natural produce of the marsh, and necessary to preserve and fertilize its native soil, whereby the said marshes are greatly dammified ;

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That if any person or persons shall hereafter be found guilty of raking, collecting, or carrying off from any of the said marshes, or flats in Hampton, Hampton-Falls, Seabrook, or South-Hampton, any such weed without leave first obtained from the owner or owners thereof, or shall aid and assist therein, every such offender, for every such trespass, shall, on conviction thereof, forfeit and pay treble damages to the party or parties injured thereby, and also a sum not exceeding forty shillings, one moiety thereof to the informer, the other to the party or parties injured, which damages and forfeitures shall be recovered by action before any justice of the peace, if the penalty or damage exceed not forty shillings ; but if it be above that sum, then before the court of common pleas.

Approved January 15, 1794.

Passed Dec.
13, 1808.

AN ACT to prohibit any person from hauling or removing Sea-Weed and Rock-Weed from the Sea-shore, in the towns of Hampton and North-Hampton.

WHEREAS inconveniences and disputes often arise between persons who haul sea-weed and rock-weed from the sea shore in the town of Hampton, and in the town of North-Hampton ; For remedy whereof,

Sea-weed not
to be remov-
ed.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That any person or persons, who shall hereafter be found guilty of raking, collecting, removing, or carrying off from the sea-shore in the towns of Hampton and North-Hampton aforesaid, any such sea-weed or rock-weed, or shall aid and assist therein between day light in the evening and day light in the morning, every such offender, for every such trespass, shall, on conviction thereof, forfeit and pay a sum not less than six dollars nor more than thirteen dollars, to be recovered in an action of debt before any court proper to try the same ; one half of which sum shall be for the use and benefit of the person suing for the same, and the other half for the use and benefit of the town in which such trespass may be committed.*

Penalty.

SECT. 2. *And be it further enacted, That any person or persons, who shall pile up, for the purpose of hauling away, any sea-weed or rock-weed below high water mark in said towns, shall forfeit and pay a sum not less than six dollars nor more than thirteen dollars, to be recovered and disposed of as aforesaid.* *Approved December 13, 1808.**

* An act passed on this subject June 18, 1793, which was limited to the term of 10 years—It does not seem to have been printed.

AN ACT regulating the piling, hauling and removing of sea-weed and rock-weed from the sea-shore in the town of Rye. Passed June 21, 1814

WHEREAS inconveniences and disputes often arise between persons who haul sea-weed and rock-weed from the sea-shore in the town of Rye :

For remedy whereof—

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That any person or persons who shall hereafter be found guilty of raking, collecting, or carrying off from the sea-shore, in the town of Rye aforesaid, any sea-weed or rock-weed, or shall aid or assist therein, between daylight in the evening and daylight in the morning ; every such offender, for every such offence, shall, on conviction thereof, forfeit and pay a sum not less than six dollars, nor more than thirteen dollars.

SECT. 2. *And be it further enacted,* That any person or persons, who shall pile up for the purpose of hauling away any sea-weed or rock-weed below high water mark, in said town, shall, on conviction thereof, forfeit and pay a sum, not less than six dollars, nor more than thirteen dollars.

SECT. 3. *And be it further enacted,* That said penalties shall be recovered in an action of debt before any court proper to try the same ; one half of which sum shall be for the use and benefit of the person suing for the same, and the other half for the use and benefit of said town of Rye. Penalties how recovered, & for whose benefit.

SECT. 4. *And be it further enacted,* That an act to prohibit any person from hauling or removing sea-weed from the sea-shore in Rye, approved June 14th, 1800, be, and the same is hereby repealed. Repeal.

Approved June 21, 1814.

AN ACT relative to Common Fields, and regulating Fences. Passed Feb. 8, 1791.
[Sept. 15, 1792.]

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That where several owners of lands shall improve their lands in one common field, they may meet and agree on such mode of fencing and securing the same as to them may seem best. And any justice of the peace on the application of any two or more of such owners or proprietors may call a meeting of such owners and proprietors, and when met, they, or the major part of them, may in any way they may think just and equitable, set out and apportion, or cause to be set out and apportioned, each owner's part of the fence to be built and maintained, and each owner shall make and maintain such part of the fence as may be allotted to him, as long as he continues to improve his part in such common field ; and such own- Common fields how fenced.

ers at any legal meeting warned and holden for that purpose, may raise such sums of money, as they may judge necessary for defraying the charges of making a division of the fence as aforesaid, or of fencing such part of such common field as they may think best to fence and maintain in common; and they and the officers by them chosen, shall have all the powers incident to assessing, levying and collecting any such sums of money.

Owner of defective fence to make good the damages.

SECT. 2. *And be it further enacted,* That when any damage is done in such common field, through insufficiency of the fence, the person whose duty it was to make the fence which proves insufficient, shall be liable to make good all such damage to the person injured, by special action of the case.

Owners of lands in common fields to run their lines

SECT. 3. *And be it further enacted,* That each proprietor of lands lying in one common field, and the owners of any lands where there is not a division fence between them, shall once in five years on six days notice previously given, run the lines and make and keep up the boundaries between them, on penalty of forfeiting ten shillings for each neglect, to be recovered by any person who will sue therefor.

Fence viewers.

SECT. 4. *And be it further enacted,* That the inhabitants of every town and place in this state, at their annual meeting for the choice of town officers, shall choose fence viewers, who shall be freeholders, and who shall be sworn to the faithful discharge of the duties of said office.

Their duty

And it shall be the duty of all fence viewers, on request, to view all fences in the same town or place for which they are chosen, and to establish division fences between persons interested in making them, and to appraise damage done in certain cases, and generally to do all the duties in this act, and by law enjoined upon them. And every fence by them or the major part of them adjudged good and sufficient, shall be considered as legal and sufficient to all intents and purposes.

Partition fences.

SECT. 5. *And be it further enacted,* That the owners or occupants of lands under improvement, and adjoining shall contribute equally in building and repairing the partition fence between them, so long as they shall continue to improve.

And where no division of such partition fence hath been made, and the persons whose duty it is to make and maintain such fence, cannot agree on a division of the same, the fence viewers of the town where the lands lie, and in case the lands be in different towns, then the fence viewers of both such towns or places not interested, or the major part of them, or so many of them as the parties shall agree upon, shall notify both parties and shall repair to the place where such fence is to be built or repaired, and whether the said parties attend or not, they having been duly notified to attend, and no sufficient excuse being made for their non-at-

tendance, shall proceed to make division of such fence, and shall set the same down in writing, and charge half their fees to each party, and shall deliver or leave with each party a copy of such writing, signed by them, with a minute of their fees charged to each party as aforesaid; and such division, and division made in writing by agreement of the parties, shall be binding upon such parties, and the succeeding occupiers of such lands, and they shall forever after be obliged to maintain the part allotted and assigned as aforesaid, unless a new agreement should afterwards otherwise establish a division. And in all cases where division shall be made as aforesaid, or where division shall have been made by agreement of the parties, if either party shall neglect to build and make a sufficient fence on his part, or shall neglect to keep the same in good repair from time to time, the party aggrieved thereby, may apply to the fence viewers, who shall repair to the place, and if they are of opinion that the fence, if there be any, is insufficient, or if there be none, that there hath been a division either in manner aforesaid, or by agreement of parties as aforesaid, they shall notify in writing the delinquent party to build or repair his part of the fence within the term of six days, or within such term, which shall never be less than six days, as they, considering the season of the year, and the labour to be done, may think just and reasonable. And where division shall be made by fence viewers, they may do this at the time of their making such division; and if the party shall neglect to build or repair that part of the fence which belongs to him to build or repair, within the time so ordered and allowed by the fence viewers as aforesaid, then the party aggrieved thereby and injured by such neglect, his own part of the fence being in good repair, and so adjudged by the fence viewers, may build or repair the part of him so neglecting, and the said fence viewers, if they adjudge the part so built or repaired sufficient, shall estimate and appraise the same, and thereto add their own fees, and shall express and set down such their appraisal and the amount of their fees in writing, and shall sign the same, and the person so building or repairing, shall have a right to demand and receive double the said amount of the occupant, lessor or freeholder of the land where the said fence was deficient, at his election, together with costs of suit.

Provided always, That previous to the commencement of any such suit, he shall demand the said double amount of the person against whom he shall make his election.

SECT. 6. *And be it further enacted,* That when one of the owners of lands adjoining, shall have begun to improve before the other, and shall have built a fence on the divisional line between them, and afterwards the other shall improve and shall be advantaged thereby, the occupant, lessor or freeholder of such land last begun to be improved,

Where one owner of common land improves in severally before the other.

shall pay for one half of the partition fence between them, according to the value of it at the time he shall begin to improve, such value to be ascertained (in case they cannot agree amongst themselves) by the fence viewers, on application of either party, the other being notified to attend at the time of making such appraisement, which shall be set down and expressed in writing, and be signed by the fence viewers making the same, and delivered by them to such of the said parties as will receive the same. And if such occupant, lessor or proprietor as aforesaid, shall, after notice as aforesaid, and demand made, for the space of thirty days neglect to pay for a moiety of such fence, the proprietor of such fence, or person who made the same, shall, and may recover double the sum so ascertained, by special action on the case, against such occupant, lessor or freeholder notified and requested as aforesaid.

Owner of land
ceasing to im-
prove.

SECT. 7. *And be it further enacted*, That where one party shall cease to improve his land, or shall lay his enclosure before under improvement, in common, he shall not have a right to take away his part of the fence, but shall have a right to the value of his part from the owner, occupant or lessor of the lands adjoining, he continuing to improve, and if they cannot agree on the value of such fence at the time of his so ceasing to improve, the same shall be determined and ascertained by the fence viewers in manner aforesaid, and on neglect of payment after demand actually made, for the space of thirty days, the said party so ceasing to improve, shall recover the full value ascertained as aforesaid, of the occupant, lessor or freeholder, by action on the case with costs of suit.

Damages
from defi-
ciency of
fence.

SECT. 8. *And be it further enacted*, That when any damage shall happen to any owner or occupant of land, by reason of deficient fence which it was the duty of the owner or occupant of the land adjoining to build or maintain, then such person whose duty it was to build or maintain such fence, which hath proved to be so insufficient, shall be liable to make good all such damages, to be recovered by special action on the case.

SECT. 9. *And be it further enacted*, That where any damage shall be done to any person, whose fences are insufficient, and such damage shall happen through such deficiency of fence, by swine yoked and ringed according to law, horses fettered, and other creatures not prohibited from feeding on the highways or commons, the person sustaining such damage may not impound the creatures so doing damage, nor shall he recover any damages therefor.

Penalty on
fence viewers
for neglect.

SECT. 10. *And be it further enacted*, That if any fence viewer shall neglect to attend, and do any of the duties enjoined upon him by law, he shall forfeit and pay the sum of thirty shillings to any person who will sue for the same.

SECT. 11. *And be it further enacted,* That each fence viewer shall be allowed four shillings per day for his services, and two shillings for any time less than a day, and in all cases except where the same is otherwise ordered and directed, the fees shall be paid by the parties interested, and in all cases where the party or parties whose duty it is to pay the fence viewers for their service, shall neglect to pay the same for the space of thirty days after the service done, they may recover double fees by action on the case, and each fence viewer may be a witness for or against another fence viewer, who was concerned with him in the same business or service. Their fees.

SECT. 12. *And be it further enacted,* That in all cases before mentioned, where fence viewers shall make a division of fence, or shall estimate the value of any fence made or repaired, they shall make oath that in doing it they have acted impartially, uprightly and according to their best skill and judgment, and the same being recorded with the justice's certificate thereon, in the book of records belonging to such town or place, by the clerk thereof where the original is lost, an attested copy from such records shall be used instead thereof, and shall be of equal validity with the original. Division of fences to be recorded

Passed February 8, 1791.

AN ACT to prevent damage being done by Horses, Mules and Jacks. Passed Jan. 14, 1795.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the first day of March until the last day of November, in each year, no horse, horse kind, mule or jack, more than six months old, shall be suffered to go at large on any highway or common, in any town in this state; unless such horse, horse kind, mule or jack shall be fettered with good and sufficient fetters, on penalty that the owner or owners, thereof, or person having the care of such horse, horse kind, mule or jack, forfeit and pay one dollar for each offence; to be recovered by action of debt, before any justice of the peace, by any person who shall sue for the same with costs of prosecution; unless it shall appear that such horse, or horse kind was going at large without the knowledge or negligence of the owner, or person having the care thereof as aforesaid. Horses, &c. to be fettered.

Penalty.

How to be recovered.

SECT. 2. *And be it further enacted,* That from and after the last day of November until the last day of March, in each year, any horse, horse kind, mule or jack, going at large, with or without fetters, in any highway or common, as aforesaid, the owner or owners, or persons having care thereof, shall be liable to the forfeiture of one dollar, to be recovered by any person who will sue for the same, in manner aforesaid.

Treble damages to be recovered.

SECT. 3. *And be it further enacted*, 'That any person sustaining any damage in the publick highway or common, by any horse or horse kind going at large, with or without fetters, shall recover of the owner or owners, treble the amount of damage, with costs of prosecution, by action in any court competent to try the same :

Proviso.

Provided, nevertheless, That nothing in this act shall be construed to tolerate any horse, horse kind, mule or jack going at large, that is known to be unruly, by pushing down bars, or any kind of fence, and the same hath been made known to his owner; in every such case the owner or owners thereof shall be liable to the penalty of one dollar, to be recovered as aforesaid; said horse, horse kind, mule or jack being fettered notwithstanding.

Approved January 14, 1795.

Passed June
16, 1791.
[Sept, 15,
1792.]

AN ACT regulating Swine.

Swine not to go at large, except under certain restrictions:

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That no swine shall be suffered to go at large on any highway or common within this state, at any time between the first day of April and the last day of October annually without being yoked and ringed according to law, on penalty that the owners forfeit and pay one shilling and six pence for each offence, to be recovered by action of debt before any justice of the peace by any hogreeve, or any freeholder of the town or place where such swine shall be found, who will sue for the same, with costs of prosecution, unless it appear that such swine were accidentally out of the owner's enclosure.

nor at all in the town of Portsmouth.

And no swine shall be suffered at any time in the year to go at large in the compact part of the town of Portsmouth, which is described and bounded as follows, viz. beginning at the westerly side of the gaol, thence running southerly to the head of Pickering's mill-pond, thence easterly by said pond to the river, thence northerly by said river to Boyd's mill-pond, and thence to said place of beginning, on penalty that the owner forfeit the swine so going at large, to any person who will take up and secure the same, unless it shall appear that said swine were accidentally out of the owner's enclosure.

And no swine in any other part of the state, shall at any time in the year be suffered to go at large, without a ring in the nose sufficient to prevent rooting, on pain that the owner forfeit one shilling and six pence for each offence, to be recovered by any hogreeve or freeholder in manner as aforesaid; and no yoke shall be accounted sufficient, unless it be as much as the depth of the swine's neck above the neck, and half as much below, and unless the sole or bottom of the yoke be three times as long as the thickness of the swine's neck.

And in case the owner of any swine which are found going impounding—
 at large unyoked and unringed as the law requires, shall
 not be known to the hogreeve or freeholder as aforesaid,
 finding such swine, he shall have full power to impound notice.
 them, and shall give notice in the town or place where they
 shall be impounded, and in two adjacent towns, by causing a
 notification thereof, with the natural and artificial marks (if
 any) of such swine, and by whom impounded, to be posted
 in some publick place in each of the respective towns afore-
 said, and if no owner shall appear within six days after
 such notifications are set up, or appearing shall refuse to
 pay the penalty aforesaid, with charges of impounding and
 supporting said swine (which support every impounder shall
 cause to be furnished) then the person impounding such
 swine may apply to a justice of the peace, who is hereby
 ordered and directed to issue a warrant of appraisement to
 two suitable persons to appraise the said swine upon oath,
 by him to be administered; and the impounder may take
 such swine to his own use at the appraised value, or he may
 expose them to sale at publick auction, giving twenty-four
 hours notice before hand of the time and place of the intend-
 ed sale, and he shall be allowed all reasonable cost and charg-
 es for his trouble, assistance, time in driving, charge in sup-
 porting, advertising and selling or appraising said swine as
 aforesaid, to be adjusted by the justice that grants the war-
 rant of appraisement; and if no owner shall appear, and there
 remains any overplus money after the penalty and all costs
 and charges are deducted, either from the appraised value or
 the proceeds of such sale as aforesaid, as the case may be,
 such overplus money shall be delivered to the justice who
 adjusted the charges as aforesaid, to be by him paid to the
 owner if he apply for the same within one year from the
 time of his receiving the same, and in case he do not apply
 within the said time, then to be delivered to the overseers of
 the poor of such town or place where the impounding is, for
 the use of the poor of such town or place.

SECT. 2. *And be it further enacted*, That it shall be ^{Hogreeve's}
 the duty of the hogreeves in the respective towns and places ^{duty.}
 in this state, to see that all swine going at large be yoked
 and ringed as the law requires; and if they find any swine
 going at large unyoked or unringed, according to law, or if
 complaint be made to them of any such within their respec-
 tive towns or places, in such case the hogreeve shall notify
 the owner of the swine, if known, to yoke and ring the same,
 and if the owner neglect so to do after notice given, for the
 space of twenty four hours, then the hogreeve shall yoke
 and ring such swine as the case may require, and shall have
 as a fee for notifying, for each swine in all cases three pence,
 and one shilling for yoking, and six pence for ringing every
 swine so by him yoked or ringed; to be recovered by action
 against the said owner; but if the owner be not known,

then the swine going at large unyoked and unringed shall be impounded, and proceeded with as aforesaid by the hog-reeve, or by any freeholder as aforesaid, in manner before directed.

Town regula-
tions.

SECT. 3. *And be it further enacted*, That the inhabitants of any town, may at any legal meeting agree upon any method other and different from that mentioned and prescribed in this act (except what relates to the compact part of Portsmouth as before described, and except what relates to ringing) for regulating the swine within the same town, which regulations shall last for one year only, upon such pains and penalties as shall be adequate to the purpose of carrying the same into execution.

Passed June 16, 1791.

Passed Feb.
9, 1791.
[Sept. 15,
1792.]

AN ACT relative to Strays, and Lost Goods.

Person find-
ing to give
notice to the
town clerk,

who shall re-
cord,

and publish
the same.

See act of
June 21,
1814.

Property
found to be
appraised,

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the person finding any money, or goods, or finding and taking up any stray beast, whereof the owner is not known, shall, within six days from the time of finding or taking up as aforesaid, give notice thereof in writing to the clerk of the town or place in which such money, goods or beast were so found or taken up, and shall in such notification particularly describe the goods or beasts so found or taken up, and shall mention therein the amount of the money found; and the said clerk shall enter the same in a book to be kept by him for that purpose; and the said person finding, shall also within the said term of six days, put up a like notification in some publick place in said town or place; "and the said clerk shall at three publick meetings of such town or place, immediately succeeding, read the same notification given to him as aforesaid publickly in the same meeting," and if the money so found, or the value of the goods or beasts so found and taken up, exceed twenty shillings, the said person finding or taking up shall also within the time before mentioned, put up a like notification in some publick place in each of two at least of the adjoining towns or places, and the person so finding or taking up any stray beast, shall also within the said term of six days put a withe about the neck of such stray beast, and if no owner appeareth within one month from the time of notifying, then the person finding shall apply to a justice of the peace, who shall appoint one or more persons, not exceeding three, to appraise the property so found, if such property be other than money. And the said appraiser or appraisers shall be sworn by the said justice to the faithful discharge of that duty, and shall make return of such appraisement to the said justice; and if the owner of any money, goods or stray beasts, do not appear within one year

from the time of the notification being entered with the town clerk as aforesaid; then the charges incurred by the person finding, the justice's clerk's and appraiser's fees, and the keeping previous to the appraisal being adjusted and allowed by the said justice, and being deducted from the amount of the money found, or from the appraised value of the goods or stray beasts so found, the person so finding shall pay a sum equal to the residue to the treasurer or selectmen of the town or place where such money, goods or stray beast was found, to be for the use of such town or place, and the person finding shall keep the money, goods or beast so found to his own use; but if the owner appeareth at any time after notice given to the clerk as aforesaid, and shall tender to the person finding a reasonable sum for the keeping, charges and fees incurred, to be adjusted by the justice, who appointed the appraisers, and in case none were appointed, then by any justice of the peace to whom the person finding may immediately apply, or if he doth not immediately apply, then to be adjusted by any justice of the peace to whom the owner may apply, in such case the owner shall be entitled to his property again.

SECT. 2. *And be it further enacted*, That if any person finding any money or goods as aforesaid, or taking up any stray beast as aforesaid, shall neglect to notify in manner aforesaid, within the time before prescribed, or shall neglect to put on the withe before required to be put on, and to keep on the same constantly, or shall neglect to apply to a justice of the peace for appraisement as aforesaid, such person so neglecting, shall not be entitled to receive any thing for his trouble or charges in keeping or advertising, or other proceedings with such money, goods or strays; and shall further forfeit and pay to any person who will sue for the same, the sum of ten pounds for every such neglect or default.

SECT. 3. *And be it further enacted*, That if the stray beast found and proceeded with according to law, should happen to die, not through carelessness or negligence of the person finding and keeping, then the person finding, if ever he should discover the owner of such stray beast, shall be entitled to recover against him all such reasonable costs and charges as he may have been at before the death of such creature.

SECT. 4. *And be it further enacted*, That if any clerk shall omit to do the duty enjoined upon him by this act, he shall forfeit and pay to any person who will sue for the same, the sum of ten pounds, to the use of the person suing.

And if any person shall take down any notification set up as aforesaid, until the expiration of one year from the time of setting up the same, or until the purpose for which such notification was set up shall have been fully answered, or if any person shall take off the withe to be put on stray beasts as aforesaid, during the time in which the same ought to re-

how disposed of.

Penalty on person finding and neglecting to comply with the above directions.

Stray beast dying, owner to pay.

Penalty on clerk for neglect.

Penalty for taking down notifications or taking off withes.

main on such stray beast, every person so offending in either of the cases aforesaid, shall forfeit and pay to any person who will sue for the same, to his use, the sum of two pounds.

No stray
beast to be
taken up from
April to No-
vember.

SECT. 5. *And be it further enacted*, That no person shall from the first day of April, to the first day of November, yearly, take up any horse or other beast for a stray, or proceed with them as such within said term, though the owner be not known, unless such beast be taken damage feasant, or doing damage in some enclosure.

Fees.

SECT. 6. *And be it further enacted*, That the fees for notifying the clerk shall be one shilling and six pence, and one shilling and six pence for every advertisement posted up, and if in an adjacent town it shall be two shillings and six pence, and the clerk's fees shall be one shilling and six pence for receiving and recording the notification, and six pence for each time of reading and notifying at a publick meeting ; and the justice shall be allowed for appointing appraisers one shilling and six pence, for receiving the appraisal one shilling and six pence, for recording the same and adjusting the charges three shillings, and the person keeping any stray beast, shall be paid for putting on the withe, and keeping the same on, if less than six months, one shilling and six pence, if more, three shillings, and for keeping, the customary price.

Passed February 9, 1791.

Passed June
17, 1811.

AN ACT to authorize towns to make by-laws to prevent Horses, Mules, Jacks, neat Cattle, Sheep and Swine from going at large.

BE it enacted by the senate and house of representatives, in general court convened, That any town at its annual meeting, or at any meeting legally holden for the purpose, may make by-laws, to prevent horses or horse kind, mules, jacks, neat cattle, sheep and swine from going at large in any street, highway or common, or in any publick place within its jurisdiction, defined by known limits, from and after the first day of April until the last day of October in each year on penalty that the owner or owners, or person having the care of any horse or horse kind, mule, jack, neat cattle, sheep or swine, so going at large, shall forfeit a sum not exceeding four dollars for the breach of any by-law so made, to be recovered by action of debt before any justice of the peace, to and for the use of the person who shall sue for the same, with costs of suit ; unless it shall appear that such horse or other creature as aforesaid, was going at large without the knowledge or negligence of the owner or person having the care thereof—any law heretofore to the contrary notwithstanding. *Approved June 17, 1811.*

AN ACT in addition to an act, entitled, "An act, relative to Strays and lost Goods," passed Feb. 9, 1791. Passed June 21, 1814

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That when any person or persons, finding any money or goods, or finding and taking up any stray beast, whereof the owner is not known, shall give notice thereof in writing, to the clerk of the town or place in which such money, goods, or beast, were so found, or taken up, and particularly describe the same, according to the provisions of the act to which this is in addition, it shall be the duty of such clerk to post up an attested copy of such notification, and description of such money, goods, or beast, so found, at three publick meetings in such town or place immediately succeeding, or read the same publickly at said meetings. Person finding goods, or taking up strays—to give notice

SECT. 2. *And be it further enacted,* That in case there are no regular stated meetings in such town or place, it shall then be the duty of such town clerk to post up an attested copy as aforesaid, at some publick place in such town, three sabbath days, or three publick meeting days, immediately succeeding the receipt of such notification and description: and that the part of said act, to which this is in addition, in the following words, to wit, "and the said clerk shall, at three publick meetings of such town or place, immediately succeeding, read the same notification given to him as aforesaid, publickly in the same meeting," be, and the same hereby is repealed. Clerk to post up in some publick place.

Approved June 21, 1814. Repeal.

AN ACT regulating Pounds.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That there shall be made and maintained in every town in this state, in some convenient place, a good and sufficient pound, to be built and maintained at the expense of such town, for the impounding and restraining of all swine, cattle, sheep or other creatures liable to be impounded or restrained. Passed Feb. 9, 1791.
[Sept. 15, 1792.]

And if any town shall not be provided with such pound, within two years from the passing of this act, they shall forfeit and pay to any person who will sue for the same, the sum of ten pounds, and the same sum for every year afterwards that they shall be destitute of such pound; and may on indictment be fined in a sum not exceeding five pounds in either of the cases aforesaid, to the use of the county in which such town lies. Pounds to be built in every town.
Penalty for neglect.

And where any town or place shall not have such pound, any person desirous of impounding any creatures doing damage, or otherwise liable to be impounded, may impound them in his own barn or other enclosure, taking care imme-

diately to notify the owner and all concerned of the place where, and the cause for which they are impounded.

Creatures
damage fea-
sant may be
impounded.

SECT. 2. *And be it further enacted*, That it shall and may be lawful for any person to impound any swine, neat cattle, horses, sheep or other creatures that shall be found damage feasant, or doing damage in his enclosure ; swine found in the highway or on any common land, in any town or place, unyoked or unringed as the law requires ; any neat cattle, horses, sheep or other creatures going on any common land in any town or place, not allowed to feed there by the town, or major part of the proprietors of such common land, who may permit the same. And the fees to be paid to the pound keeper shall be three pence per head for every creature impounded, except sheep, for which the fees shall be one penny per head, including the putting in and letting out, and the fee to the person impounding shall be four pence per mile for travel, from the place where the creatures impounded are found doing damage, or otherwise liable to be impounded, to the pound ; and two pence per head for driving, if more than one mile, otherwise one penny per head, and the sum to be allowed for sustenance of the creatures impounded, shall be for cattle and horses above one year old, six pence per day each, for cattle and horses under that age, and for all other creatures, two pence per day each.

Creatures im-
pounded to
be supported.

And it shall be the duty of the pound keeper, where there is any such, otherwise the duty of the person impounding, to cause the creatures impounded to be relieved with meat and drink, suitable for such creatures, and upon neglect, such person shall be liable to an action by the owner of the cattle for all damage sustained thereby. And the person impounding any creatures, shall leave with the pound keeper, in writing, an estimate of the damage sustained, and done by the creatures impounded, and the amount of his fees and charges incurred.

Person im-
pounding to
give notice to
the owner.

And if he shall know the owner of the creatures impounded, or the person who hath had them last in possession or keeping, he shall, within twenty four hours from the time of impounding, cause to be delivered to the owner thereof, in person, or cause to be left at the last and usual place of the abode of such person, a notification in writing, which shall certify the owner, of* the damage done, describe the creatures that did it, the time when, and the place where the same was done, and the sum at which he estimates such damage, and the amount of such charges and fees, as have already accrued. And the person notifying shall be allowed one shilling and six pence therefor, and two pence per mile for travel from the pound to the place where such notification shall be given or left as aforesaid. And the owner or claimant of such creatures, if he will pay the damages done, and the charges incurred therein, to the person im-

* of of in the original by mistake.

pounding, or to the pound keeper, the pound keeper or person impounding shall immediately release the creatures impounded. But if the owner of the creatures impounded shall refuse to pay the sum, at which the party conceiving himself injured by such creatures, has estimated the same damage; then the person impounding may, and upon his neglect the owner may apply to some justice of the peace in the same, or in an adjoining town, who shall immediately notify the party to appear before him, at such time and place, as the said justice shall appoint, which to prevent expense to the parties litigant, shall be as soon as possible, and upon his attendance at the time, or in case he should refuse to attend, in either case, the said justice shall nominate, and after hearing the objections of the parties present, shall appoint one or more person or persons indifferent, between the parties, not exceeding three, to appraise the damage done by such creatures; and the persons so appointed, shall repair to the place where the supposed trespass was committed, and having considered all the circumstances, and heard the pleas and allegations of the parties, and their witnesses produced, or such of the parties as may choose to attend; the man or men so appointed by the justice shall notify the parties of the time when he or they will attend the business, and when he or they have heard and considered the whole matter, he or they so appointed, or major part of them, if more than two shall make return in writing to the justice, either that the party has sustained damage, and how much, or that such party hath sustained no damage, and the report shall be final and conclusive between the parties, as to the trespass for which the said creatures were impounded, and upon paying the sum so assessed and reported, and the charges incurred, including the fees of the justice and the person or persons who appraised the damages, to be assessed by the justice, or upon tender of the same, shall be entitled to have his creatures impounded, released from the pound. And in all cases the owner of the creatures impounded may, at any time while the creatures remain in the pound, replevie the same, if he see cause, giving sufficient bond with good sureties, in a sum equal to double the value of the creatures impounded, to prosecute his replevin before a justice of the peace, if the value of the creatures impounded exceed not the sum of forty shillings, within fifteen days, otherwise at the next court of common pleas, to be holden in the same county, and to pay all such damages, costs and charges as may be awarded against him.

Justices to appoint persons to appraise the damage.

Owner may replevie.

SECT. 3. *And be it further enacted,* That where the owner of any creatures lawfully impounded, shall not be known, the person impounding shall immediately, or at least within twenty four hours after the impounding of such creatures, put up a notification at some publick place in the town where the said creatures are impounded, and in two adjoin-

Mode of proceeding where the owner is not known,

ing towns, containing the same as before required to be left with the owners of any creatures impounded, where known; and if after the space of four days from the time of impounding no owner appears, the person impounding may, upon paying the pound keeper his charges for impounding and for keeping the creatures impounded, take the creatures impounded out of the pound, and proceed with them as strays.

or will not
replevie.

But if the owner though at first unknown appear, or if the owner be known and notified as aforesaid, and doth not appear, or appearing doth not replevie his creatures impounded, in every such case, at the end of four days from the time of the owner's appearing in the first case, or at the end of four days from the time of his being notified as aforesaid, in the latter case, the creatures not being replevied, but still remaining in pound, and the owner in either case not having paid or tendered to the person impounding, or the pound keeper, the amount of damages assessed as aforesaid, and all lawful charges as aforesaid, the person impounding shall, if it is not done already, apply to a justice to have the damages assessed, to be conducted and managed as before is directed; and the justice shall order the creatures impounded, or so many of them as may be sufficient to satisfy the damages and costs, as he may think most advantageous to the owner, to be sold at publick auction, giving the same notice as sheriffs are obliged by law to give when they shall sell any chattels to satisfy any execution, or he may order them to be appraised, in which case the person impounding them shall take them to his own use at the appraised value, and in either case, after the damages and all charges are deducted, he shall pay the overplus, if there be any, to the owner when he appears to receive it, and in case they are not all appraised or sold at auction, the person impounding shall keep such creatures as remain, one year for the owner, who at any time within the year may have them, paying the person keeping them, having respect to the risque such person runs of losing the keeping by such creatures dying, a reasonable sum for keeping; and if the owner doth not appear to demand or take them and pay the keeping as aforesaid, then at the expiration of the said year, they shall be the property of the said person impounding them. And in all cases the damages to be estimated to the party impounding, shall only be that which hath been done by such creatures the last time of their being in the enclosure of the person impounding, and not any damage the same creatures may have done at any time previous thereto.

Penalty for
rescuing.

SECT. 4. *And be it further enacted*, That if any person shall rescue any swine, neat cattle, horses, sheep or other creatures, from the possession of any person driving, or being about to drive them to pound, the person so of-

fending, shall, for every such offence be liable to pay a fine of forty shillings, besides damage, to the person injured thereby.

And if any person shall make any pound breach, or in any way directly or indirectly, convey or deliver any creatures out of any pound, without lawful authority so to do, he shall, for every such offence, forfeit and pay the sum of five pounds, on indictment to be found by the grand jury, and shall also be liable to an action by the person impounding, to recover all such damages as he shall have sustained by reason thereof.

And if any person convicted of either of said offences, shall be unable to pay said fine and costs, the court before whom the conviction may be, may punish such person by imprisonment, not exceeding sixty days, or by whipping, not exceeding thirty stripes, at the discretion of the court before whom the conviction shall be.

Passed February 9, 1791.

AN ACT in addition to an act, regulating Pounds.

Passed Dec.
16, 1797.

BE it enacted by the senate and house of representatives, in general court convened, That if any person shall make any pound breach, or in any way directly, or indirectly, convey or deliver any creatures out of any pound within this state, without lawful authority so to do, or if any creatures legally impounded, shall, by any means be set at large, otherwise than by due course of law, the pound keeper or the person who impounded the same, is hereby authorized any time within six days from the time of said breach, to retake said creatures and impound them again, and the pound keeper and person impounding them shall have the same fees for impounding the second time which they were entitled to by law the first time said creatures were impounded; and the pound keeper shall detain said creatures in pound until the damages and costs are satisfied for which they were first impounded, with the additional cost of impounding after said breach, or said creatures are otherwise released by due course of law; and if any such creatures shall be found in any person's enclosure after such breach, and the owner of the enclosure shall refuse to deliver them up to the pound keeper or the person who first impounded them, upon his demanding said creatures, it shall be considered as sufficient evidence against the person so detaining said creatures, to convict him of having made the pound breach to release said creatures from the pound.

Approved December 16, 1797

Passed Feb.
22, 1794.

AN ACT to promote the increase of Sheep in this state.

WHEREAS the increase of sheep would be of very great utility to the inhabitants of this state ; but by reason of many persons suffering their rams to run at large, at all times of the year, the number of sheep, by the yearning of lambs at an unsuitable season, is rather diminished than increased ;

For remedy whereof,

Be it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act no ram shall be suffered to go at large within this state from the tenth day of August to the fifteenth day of November annually, on the penalty of twenty shillings for each ram, as often as the same shall be found out of the owner's enclosure between the days aforesaid, which penalty shall be paid by the owner of the ram so found, to the person or persons who shall impound the same, which any person is hereby as fully authorized to do, as he may by the present laws, impound beasts taken damage feasant. And every person who shall impound any ram found as aforesaid, shall immediately give personal notice thereof, to the owner or owners of such ram or rams, if known, and if unknown, the person or persons impounding such ram shall post up an advertisement in writing, particularly describing him, and the time and place of his being impounded, at two or more publick places in the town, parish or place where such ram or rams shall be so impounded, for the space of five days ; and if no owner shall appear to claim such ram or rams within that time ; or appearing shall refuse to pay the said penalty, with all legal incidental* charges, then the said ram or rams shall become forfeited to the person or persons impounding the same, to be by him or them appropriated to his or their own use.

* Incident in
the original.

Approved February 22, 1794.

Passed June
21, 1811.

AN ACT to encourage the raising of Hemp in this state.

BE it enacted by the senate and house of representatives, in general court convened, That the treasurer of this state be, and hereby is authorized and directed to pay five dollars to each and every inhabitant of this state who shall in any one year hereafter raise, clean and prepare fit for use five hundred pounds weight of good merchantable hemp, and one dollar for each and every hundred pound weight over and above the quantity first mentioned, on any lands lying within said state ; and that a certificate signed by the selectmen and town clerk of the town in which such hemp is raised, produced and delivered to said treasurer, shall be deemed and considered evidence sufficient to entitle the person in whose favour it is, to receive said bounty.

Bounty.

Evidence.

Approved June 21, 1811.

AN ACT allowing a certain premium for killing *Wolves*. Passed June 12, 1801.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any person shall kill any wolf or wolf's whelp within this state, and shall bring the head of such wolf or wolf's whelp to the selectmen of the town or place in which the same was killed, and if there be no selectmen in the town or place where the same was killed, then to the selectmen of the town or place next to the town or place where the same was killed, and shall prove to the satisfaction of the said selectmen, that the wolf or wolf's whelp, the head of which he hath brought to them as aforesaid, was killed by him, or by his means, or by any other person whose agent he is, the said selectmen shall cut off the ears from the head so brought to them as aforesaid, and shall otherwise disfigure it so that it may never be produced for the like purpose again, and the said selectmen shall give the person so producing the head as aforesaid, a receipt for the same, and the person receiving the same receipt on producing it to the treasurer of this state shall receive out of the treasury of this state the sum of twenty dollars, for every wolf killed as aforesaid, and the sum of ten dollars for every wolf's whelp killed as aforesaid. Bounty

SECT. 2. *Provided, nevertheless, and be it further enacted,* That the said treasurer shall not pay for any receipt produced as aforesaid, until the next session of the general court, which shall happen after procuring the same, that he may have an opportunity of inquiring into the validity thereof, which he is hereby directed to do.

SECT. 3. *And be it further enacted,* That an act, entitled, "An act, allowing a certain premium for killing wolves," passed the tenth day of February, A. D. 1791, be, and the same is hereby repealed. Repealing clause.

Approved June 12, 1801.

AN ACT allowing a certain premium for killing *Wild Cats*. Passed June 27, 1809

BE it enacted by the senate and house of representatives, in general court convened, That if any person shall kill any wild cat, of that species of cats which are naturally wild, within this state, and shall bring the head of such wild cat to the selectmen of the town or place in which the same was killed, and if there be no selectmen in the town or place where the same was killed, then the selectmen of the town or place next to the town or place where the same was killed, and shall prove to the satisfaction of said selectmen that the wild cat, the head of which he hath brought to them as aforesaid, was killed by him or by his means, or by any

Bounty.

other person whose agent he is, the said selectmen shall cut off the ears from the head so brought to them as aforesaid, or otherwise disfigure it so that it may never be produced for the like purpose again; and the said selectmen shall give the person so producing the head as aforesaid, a receipt for the same; and the person receiving the same receipt, on producing it to the treasurer of this state, shall receive out of the treasury of this state the sum of three dollars for every wild cat killed and certified as aforesaid.

Approved June 27, 1809.

Passed June
22, 1810.

AN ACT in addition to, and amendment of an act, entitled, "An act allowing a certain premium for killing Wild Cats," made and passed June 27th, 1809.

BE it enacted by the senate and house of representatives, in general court convened, That after the passing of this act, no bounty shall be paid to any person for killing any wild cat, excepting it be of that species of wild cats designated and known by the name of the Siberian lynx, or great grey wild cat.

Approved June 22, 1810.

Passed June
22, 1811.

AN ACT respecting Dogs.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the first day of September next, no person shall be liable by law for killing in this state any dog which shall be found, not having around his neck a collar of brass, tin or leather, with the name of the owner or owners carved or engraved thereon, and wearing the same at the time of killing as aforesaid.

Approved June 21, 1811.

Passed June
21, 1785.
[June 1,
1786.]

AN ACT for the admeasurement of Boards, and for regulating the tale of Shingles, Clapboards, Hoops and Staves; and for other purposes therein mentioned.

Surveyors of
boards, &c.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That the president, with advice of council, appoint as often as occasion may require, a surveyor or surveyors in the towns of Portsmouth, Dover, Durham, Somersworth, Newmarket, Exeter, and any other town or towns within this state, which shall apply for the appointment of the same, who shall survey and measure boards, plank, spars, timber, slitwork, shingles, clapboards, staves and hoops, and who shall be sworn to the faithful performance of the trust reposed in them. And all boards, plank, spars, timber or slitwork, offered to sale, shall previous thereto, be surveyed, and also measured by one of

the said surveyors, where he shall have any doubt of the measure, having due consideration for drying and shrinking, who shall also mark a-new all such to the just contents thereof, making reasonable allowance for rots, knots and splits. And the buyer shall pay to the surveyor six pence per thousand feet for viewing only, and six pence per thousand feet more for measuring and marking, and so in proportion for a less quantity.

SECT. 2. *And be it further enacted by the authority aforesaid*, That no pine boards shall be shipped for exportation to a foreign market, but such as are square edged, and not less than one inch in thickness, and not less than ten feet in length, on pain of being forfeited to the use of the town where they shall be shipped.

Boards to be square edged and one inch thick.

SECT. 3. *And be it further enacted*, That no shingles, clapboards, staves or hoops, shall be offered for sale in any town in this state, that shall be under the following dimensions, viz. all shingles shall be split cross ways the grain, and be eighteen inches long, except those made for home use ; pine shingles shall be free from sap, and all shingles shall be free from shakes and worm holes, and shall be half an inch thick at the butt end, when green, and full three eighths of an inch when thoroughly seasoned, if for exportation to a foreign market ; and not less than one third of an inch thick at the butt, when fully seasoned, if for home use, and four inches and an half wide on an average, and none less than three inches wide, and shall hold their width three fourths of the way to the thin end, and be well shaved ; and each bundle shall contain two hundred and fifty shingles, or if bound in square bundles, shall contain twenty five courses, and measure twenty two inches and an half at the lay ; and in case there should be more than five shingles in any one bundle, that are not of the above length, breadth and thickness, or five short in the tale of any one bundle of two hundred and fifty, the bundle that is so deficient, or in which such shingles are contained, shall be forfeited, and the shingles in each bundle, which are not merchantable shall be burnt, and the residue sold ; and the monies arising from said sale, shall be paid into the hands of the selectmen, for the benefit of the poor of such town where the shingles are so condemned, first deducting therefrom the charge of culling and surveying.

Dimensions of shingles.

And all white oak butt staves shall be at least five feet in length, five inches wide, and one inch and a quarter thick on the heart or thinnest edge, and every part thereof.

Butt staves.

And all white oak pipe staves shall be at least four feet and eight inches long, four inches broad in the narrowest part, and not less than one inch thick on the heart or thinnest edge.

Pipe staves.

And all white oak hog-head staves shall be at least forty two inches long, and not less than three quarters of an inch thick on the heart or thinnest edge.

Hogshead staves.

Barrel staves. And all white oak barrel staves, for foreign market, shall be thirty two inches long, and for home use, shall be thirty inches long, and all shall be half an inch thick on the heart or thinnest edge.

Breadth of hhd. and barrel staves. And all white oak hogshead and barrel staves shall be at least one with another, four inches in breadth, and none less than three inches in breadth in the narrowest part, and those of the breadth last mentioned shall be clear of sap.

Red oak hhd. and barrel staves. And all red oak hogshead and barrel staves shall be of the same length, width and thickness with the white oak hogshead and barrel staves above mentioned.

Dimensions of clapboards. And all staves shall be well and proportionably split.

And all pine clapboards that shall be exposed to sale, shall be made of good sound timber, clear of sap, and all clapboards shall be free from shakes and worm holes, and of the following dimensions, to wit: full five eighths of an inch on the back or thickest part, five inches wide, and four feet six inches long, and they shall be straight and well shaved.

Hhd. hoops. And all hogshead hoops that shall be exposed to sale, shall be from ten to fourteen feet long, and shall be made of white oak or walnut, and of good and sufficient substance, well shaved: those made of oak shall not be less than one inch broad, at the least; and those made of walnut shall not be less than three quarters of an inch broad at the least; and each bundle shall consist of thirty hoops; and all hoops of ten, twelve, and fourteen feet respectively, shall be made up in distinct bundles by themselves; and if any hoops are packed, of less dimensions than those prescribed by this law, or if any bundle shall contain less than thirty hoops, such bundle shall be forfeited and sold for the benefit of the poor of the town where it is offered for sale.

Hhd. heading. And all white oak hogshead heading, which shall be offered to sale within this state, or exported to a foreign market, shall be one inch thick, thirty inches long, and not more than five pieces to a head.

Shooks. All shooks shall be forty inches long, and not less than two inches and an half wide at the ends, and full half an inch thick when dressed.

Fee for surveying. **SECT. 4.** *And be it further enacted,* That the surveyor of shingles and clapboards shall be allowed by the buyer, three pence per thousand for surveying and telling; and before any shingles are sent from the town where they are made, or at the place of first sale, before their delivery, they shall be viewed, surveyed and measured by a sworn surveyor, and a brand with the letters N. H. to be provided by each town wherein such surveyor is appointed, shall be set upon the hoop of the bundle. And all shingles offered for sale, without being surveyed and marked as aforesaid, shall be forfeited and disposed of as before in this act is provided.

Viewers and appraisers. And there shall be two or more suitable persons chosen by the town of Portsmouth, at their annual meeting in March,

to be viewers and cullers of staves and hoops, who shall be under oath, faithfully to discharge their office ; and they shall be allowed for their time and service as follows, to wit : one shilling and eight pence per thousand for barrel staves ; two shillings per thousand for bogshead staves ; two shillings and four pence per thousand for pipe staves ; two shillings and eight pence per thousand for butt staves, as well refuse as merchantable, the merchantable to be paid for by the buyer, and the refuse by the seller, and two shillings per thousand for heading ; and the culler shall be allowed one farthing for each shook, and three shillings per thousand for hoops.

Their fees.

SECT. 5. *And be it further enacted*, That from and after the first day of June next, all staves that shall be exported from this state beyond sea, shall be first culled, and all hoops first viewed and surveyed by one of the officers aforesaid, and a certificate given by a culler or surveyor to the master or commander of the ship or vessel on board which they are laden, of the quantity by him so culled or surveyed ; and the bands with which the bundles of hoops are bound, shall be sealed with the brand of the town from whence they are exported : and that all shingles and clapboards that shall be exported beyond sea, shall likewise be certified by one of the surveyors already required by law to be chosen, to have been by him surveyed, viewed and approved, and the number or quantity thereof ; and any sellers of boards, staves, hoops, shooks, heading, clapboards or shingles, that shall deliver any of said articles for exportation, before they are culled or surveyed, shall forfeit one quarter part of the articles so delivered ; and any person purchasing for exportation any of the articles before enumerated, and who shall receive them before they are culled or surveyed, shall forfeit one quarter part of the articles so purchased, one half to the informer who shall sue for the same in any court in this state proper to try the same, or before any justice of the peace in the county where the said penalty shall become due, in case the forfeiture does not exceed forty shillings ; the other half to the poor of the town where the offence is committed.

Staves and hoops, for exportation, to be culled, and surveyed.

Penalty.

SECT. 6. *And be it further enacted*, That from and after the said first day of June next, the master or owner of any vessel having any staves, hoops, shooks, boards, clapboards, shingles or heading on board for their cargo, and which shall be shipped for exportation to a foreign market, after the said first day of June next, before such vessel shall be cleared at the naval office, shall produce a certificate that such staves, hoops, shooks, boards, clapboards, shingles and heading, have been culled or surveyed, and shall likewise make oath before the naval officer (who is hereby required and empowered to administer the same) or before any justice of the peace, who shall give a certificate of said

Master or owner, before clearing, to produce a certificate.

oath, which shall by the master or owner be transmitted to the naval officer, that the boards, staves, hoops, shooks, clapboards, shingles and heading, on board his vessel, are bona fide the same certified to have been culled or surveyed, and that he has no other on board, and that he will not take any others on board.

Forfeiture for shipping boards, &c. before they are culled or surveyed.

SECT. 7. *And be it further enacted*, That from and after the said first day of June next, if any person shall presume to ship off any boards, staves, hoops, shooks, clapboards, shingles or heading, unless the same shall have been first culled or surveyed and marked by a sworn culler or surveyor, as by this act required, he shall forfeit one quarter part of such articles, to be disposed of, one half to the poor of the town where the offence is committed, and the other half to the surveyor, or any person or persons who shall sue for the same ; which he or they are enabled to do by action, bill, plaint, or information in any court proper to try the same.

Penalty on surveyor neglecting his duty, or violating his trust.

SECT. 8. *And be it further enacted*, That in case any culler or surveyor shall connive at, or allow of the breach of this act, or shall be guilty of any fraud or deceit, in surveying or culling of boards, staves, hoops, shooks, clapboards, shingles or heading, he shall forfeit and pay the sum of ten pounds for each offence ; and in case of his refusal to attend the aforesaid service, when he shall be thereto requested, he shall forfeit and pay the sum of twenty shillings ; the forfeitures and penalties to be recovered and disposed of as aforesaid.

Thickness of plank.

And the standard for the thickness of merchantable plank shall be two inches ; and when any shall be purchased for particular use, of different thickness, it shall be admeasured and calculated by that standard.

Repealing clause.

SECT. 9. *And be it further enacted by the authority aforesaid*, That all acts heretofore made for the admeasurement of boards, and for regulating the tale and dimensions of shingles, clapboards, hoops, shooks, staves, and heading, be, and they are hereby repealed.

This Act not to be in force until the first day of June next.

Passed June 21, 1785.

Passed Jan. 12, 1787.

AN ACT for the regulating the Gauging of Casks.

WHEREAS the regulation of the gauging of casks is highly necessary to prevent fraud and injustice ; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That from and after the first day of March next, all casks in which rum, wine, or other spirituous liquors, or molasses shall be exposed to sale by the gallon, shall be mathematically gauged by Gunter's scale, and the quantity said casks can contain, together with the

Casks to be gauged.

ullage thereof, set and marked on one head by the gauger, with a marking iron, for which he may demand and receive three pence from the owner or owners thereof, for every cask by him so gauged, and no more. And in case any purchaser shall not be satisfied with the account so marked, he may have the same gauged again in his presence; and if upon such examination the account aforesaid shall be found to be true, such second gauging shall be at the cost of the purchaser; but if it is found to differ, the second also shall be at the cost of the owner as aforesaid. And the selectmen of the several towns and parishes aforesaid, are hereby ordered, as there shall be occasion, or when they shall be requested by any of the inhabitants within their respective limits, to nominate and appoint a fit person or persons to the said office, who shall serve till another shall be chosen and sworn in his or their stead, to the true and faithful discharge thereof, as every one who shall be thereto appointed shall be by any justice of the peace in the following words, *mutatis mutandis*:

You A. B. being appointed a gauger, according to law, ^{Gauger's oath} do swear, that you will diligently attend, and faithfully discharge and execute the office and duty of a gauger within the limits whereto you are appointed, until another shall be chosen and sworn in your place, and that in and by all the particulars mentioned in the law whereto your office hath relation, and you shall act therein impartially, without fear or favour.

So help you GOD.

And any person who shall presume to sell any rum, wine, spirituous liquors, or molasses as aforesaid, without being gauged as this act directs, shall forfeit and pay the sum of forty shillings for each cask, the one half for the use of the poor of the town or parish where the offence is committed, and the other half to any person who will sue for the same; or said forfeiture may be recovered by presentment of the grand jury at the court of general sessions of the peace; in which case, the whole of the forfeiture shall be for the use of the poor as aforesaid.

Passed January 12, 1787.



AN ACT in addition to an act, entitled, "An act for the regulating the Gauging of Casks." Passed June 17, 1788.

WHEREAS it often happens that the gauger is obliged to gauge a single cask only, for which by the said act, he can demand three pence, which is found in such case to be inadequate for such service; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That whenever any gauger shall be required to gauge one single cask only, he may demand

Gauger's fee. and receive therefor, the sum of six pence instead of the three pence allowed by said act, and whenever any gauger shall be required to gauge more casks than one at the same time, he shall receive no more than three pence for each cask he may so gauge, as in and by said act directed.

Passed June 17, 1788.

Passed June 15, 1791.

[Sept. 15, 1792.]

The measure of cord wood.

AN ACT to prevent Fraud in Cord-wood exposed to sale.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That all cord-wood exposed to sale, shall be four feet long, accounting to half the carf, and the wood being well and close laid together, the cord shall measure eight feet in length, and four feet in height.

Measurers to be appointed, &c.

And in every town and place in this state, where wood is usually sold by the cord, there may be one or more person or persons appointed by such town or place who shall be measurers of wood in such town or place; and such measurers of wood shall be considered as town officers, and sworn as other town officers are, to the faithful discharge of the duties of the office. And it shall be the duty of the said measurers of wood, to measure all wood brought into that town or place for sale by the cord, and to certify the measure, and for measuring and certifying the measure there shall be paid by the purchaser to the measurer three pence per cord, and no more.

Penalty for selling wood not measured,

SECT. 2. *And be it further enacted,* That if any person in any town or place in this state, where there is any wood-measurer appointed and sworn, shall sell any wood by the cord, which is not measured by a wood-measurer, the person selling, and the person purchasing the same, shall severally forfeit and pay for every cord of wood so bought and sold, thirty shillings, to be recovered before any justice of the peace, not interested in the penalty, the one half of which sum shall be for the use of the town or place in which the same is so bought and sold, the other half to the use of the person suing for the same.

measurer's neglect.

SECT. 3. *And be it further enacted,* That if any measurer of wood shall neglect or refuse to do his duty, in measuring and certifying the measure of any wood brought to him to cord or measure, unless he can give a sufficient reason for such neglect or refusal, he shall forfeit and pay for every such offence the sum of thirty shillings to be recovered and appropriated in manner as before mentioned.

Passed June 15, 1791.

AN ACT regulating Scale Beams, Steelyards, Weights and Measures. Passed Dec. 15, 1797.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That the governor, by and with the advice of council, be, and hereby is authorized and empowered to appoint a sealer of weights and measures in each county in this state. County sealer of weights and measures.

SECT. 2. *And be it further enacted,* That each sealer of weights and measures appointed as aforesaid, shall provide at the expense of the state, one complete set of scale beams,* weights, and measures, similar to those now owned by this state; which shall be kept by him as standards for the use of said county.—And it shall be the duty of said sealer of weights and measures to try and prove by said standards all scale beams, steelyards, weights and measures, which shall be brought to him for that purpose by the sealers of weights and measures chosen in the respective towns in said county; and to seal such as shall be found just, agreeable to said standards, who shall receive six cents, for every scale beam, steelyard, weight and measure so tried, proved and sealed. Sealer to provide standards.

SECT. 3. *And be it further enacted,* That the selectmen of every town in this state, shall provide at the proper expense of their respective towns, one complete set of weights and measures, and a scale beam as aforesaid for the use of said town, of such materials as the town shall think proper; provided the liquid measures be of some kind of metal. Selectmen to provide standards.

SECT. 4. *And be it further enacted,* That each town in this state, shall at their annual meeting choose one suitable person for sealer of weights and measures in said town, who shall be sworn to the faithful discharge of his duty, who shall notify the inhabitants to bring in all scale beams, steelyards, weights and measures, as they make use of, in the month of May from year to year, at such time and place as he shall appoint, by posting up a notification at every meeting house in said town, and if there be no meeting house, then at some publick place in said town, three weeks successively prior to the day appointed; and the said sealer shall try, prove, and seal all such scale beams, steelyards, weights and measures as shall be brought to him, and shall be found just agreeable to said standards.—And he shall have for every scale beam, steelyard, weight and measure so sealed, two cents from the owner thereof at the first sealing, and after the first sealing one cent, only, so long as they continue just with the standard. Towns to choose sealers.

SECT. 5. *And be it further enacted,* That all measures by which meal, fruit and other things usually sold by heap, shall be sold, be of the following dimensions, viz. the bushel not less within side than eighteen inches and an half wide, Duty

* Scale beam in the original.

the half bushel not less than thirteen inches and three quarters wide, the peck not less than ten inches and three quarters wide, and the half peck not less than nine inches wide. And if any person at any time from and after the first day of September next, shall sell, expose to sale, or offer any meal, fruit or other things usually sold by heap, by any other measure than is aforementioned, as to bigness and breadth, such person being complained of and convicted before any justice of the peace within the county, of so doing, shall forfeit and pay to the use of the poor of the town where the offence is committed, the full value of the meal, fruit or other things so sold or offered to sale with costs.

Penalty for
selling by
other meas-
ures.

Sealer may go
to houses of
inhabitants.

SECT. 6. *And be it further enacted*, That the sealer of weights and measures appointed in each town within this state, from time to time, shall be, and hereby is empowered to go to the houses of such of the inhabitants, having been duly notified as aforesaid, who shall neglect to bring or send in their scale beams, steelyards, weights and measures, to be proved and sealed at the place assigned for that purpose, and shall there prove and seal the same, and shall receive of the owner for every scale beam, steelyard, weight and measure proved and sealed twenty cents and no more; and every person that shall refuse to have their scale beams, steelyards, weights and measures viewed, proved and sealed, shall forfeit the sum of ten dollars, one moiety thereof to the use of the poor of the town, and the other moiety to the sealer; and if any person shall bring his scale beams, steelyards, weights or measures, to be proved and sealed at any other time than on the day or days set by the sealer of weights and measures for that purpose, he shall in like manner pay three cents for every scale beam, steelyard, weight or measure that shall be tried and sealed, and one cent and an half for such as do not need sealing.

Penalty for
not having
weights, &c.
sealed.

Penalty for
selling by
weights, &c.
not sealed.

SECT. 7. *And be it further enacted*, That if any person from and after the first day of September next, shall sell, vend, or utter any goods, wares, merchandizes, grain or other commodities whatsoever, by other scale beams, steelyards, weights or measures, than such as shall be proved and sealed as this act requires, in any town where provision is made and notification given agreeably to this act, or shall fraudulently so sell, utter or vend any goods, wares, merchandizes, grain, or other commodities by any scale beams, steelyards, weights or measures that may be so sealed, that shall prove unjust, the person so offending shall forfeit a sum not less than one dollar, nor more than ten dollars with costs for each offence, one moiety thereof to the use of the poor of the town where the offence shall be committed, the other moiety to the informer who shall prosecute the same.

SECT. 8. *And be it further enacted,* That all scale beams, steelyards, weights and measures kept for standards in the several towns, shall be proved and tried by the publick county standards, at the end of every five years from time to time.

Scale beams, &c. to be tried.

SECT. 9. *And be it further enacted,* That if the selectmen of any town in this state neglect to comply with their duty in procuring weights and measures, and a scale-beam, as by this act is required, they shall forfeit the sum of one hundred dollars to be recovered one half for the use of the county in which the neglect shall happen, and the other half for the use of the person who shall sue for the same.

Penalty on selectmen for neglect.

SECT. 10. *And be it further enacted,* That when any sealer of weights and measures that may be duly appointed in any town where a scale beam, weights and measures are provided according to this act, shall neglect to notify the inhabitants as aforesaid, shall forfeit the sum of fifty dollars, and for neglecting the duties of his office in any other respect, from one to twenty dollars, one half for the prosecutor, the other half for the use of the town where such neglect shall happen; and all penalties and compensations mentioned in this act may be sued for and recovered by action, bill, plaint or information in any court proper to try the same.

Penalty on sealer for neglect.

SECT. 11. *And be it further enacted,* That the sealer of weights and measures for each county, may make use of such seal as he may think proper, provided a description thereof, in writing, be lodged in the secretary's office before it be made use of, and that the sealer of weights and measures chosen by each town respectively shall use such seal as the town may agree on, a record of which being previously made in the town records.

Description of seal

Provided, That this act shall remain in force till superseded by an act of the general government.*

Approved December 15, 1797.

* The operation of this act was postponed by four several acts 'till 10th December, 1801.

AN ACT for the Inspection of Pot and Pearl Ashes.

Passed Dec. 28, 1791.

SECT. 1. **B**E it enacted by the senate and house of representatives of the state of New-Hampshire, in general court convened, That no person or persons whatsoever shall ship any pot or pearl-ashes for exportation, before he shall first have submitted the same to the view and examination of the inspector or his deputy, who shall be appointed as hereinafter mentioned, who shall start the same out of the casks, and carefully examine, try and inspect the same, and sort the same in three different sorts if necessary; and the said

Pot and pearl ashes to be inspected before exportation.

inspector shall put each sort by itself in tight new casks, well hooped and coopered, which he shall distinguish by the words first sort, second sort, or third sort, with the words pot or pearl-ashes (as the same may be) branded in plain, legible letters, together with the letters of his name, and the place where such pot or pearl-ashes shall be inspected; as also the word New-Hampshire at full length on each cask: for which services, and also the additional service for re-packing the said pot or pearl-ashes and putting the casks in good condition for shipping, and for inspecting and weighing the same, and delivering to the owner an invoice or weight note under his hand, of the weight of each cask, he shall have and receive fourpence half penny for every hundred weight so inspected, to be paid by the purchaser.

Casks how to be made.

SECT. 2. *And be it further enacted*, That from and after the first day of May next, every cask in which pot or pearl-ashes shall be packed for exportation, shall be made of sound and well seasoned oak or white ash staves and heading, full bound, twenty-nine inches in length, nineteen inches diameter in the head, and of such weight in proportion to its contents, as will amount, as near as may be, to fourteen per centum tare thereon.

Casks to be weighed.

SECT. 3. *And be it further enacted*, That the said inspector or his deputy, at the time of starting pot or pearl-ashes for inspection, shall weigh the cask or casks and mark the weight with a marking iron on each head thereof.

Inspectors to search vessels.

SECT. 4. *And be it further enacted*, That every such inspector shall have full power and authority, by virtue of this act, and without further or other warrant, to enter on board any ship or vessel whatsoever, lying and being in the harbour where such inspector is authorized to inspect pot or pearl-ashes shipped or shipping on board any such vessel for exportation from this state, and if such inspector shall on search, discover any cask or casks of pot or pearl-ashes not branded as before directed, the person or persons so shipping or having shipped the same, shall forfeit all and every such cask or casks of pot and pearl-ashes so shipped or shipping and not branded in the manner herein before directed. And such inspector or his deputy, shall, and may seize and carry away and secure the same for trial and require necessary aid for that purpose, which it shall be the duty of every person so required to give, on pain of forfeiting the sum of forty shillings for his refusal or neglect.—And the master or commander of any such vessel, who shall receive on board, any such cask or casks of pot or pearl-ashes not branded as aforesaid, shall forfeit the sum of five pounds for each cask so received.

And if any master of any ship or vessel, or any of his servants or seamen, shall obstruct or hinder the said inspector in making search as aforesaid, every person so offend-

ing, shall forfeit, for each offence, the sum of one hundred pounds.

SECT. 5. *And be it further enacted*, That if any inspector of pot or pearl-ashes (according to the duties of this act) shall, on application made for the examination of any pot or pearl-ashes aforesaid, unreasonably refuse, neglect or delay to proceed to such examination and inspection, for the space of three hours after such application so made to him, the inspector so refusing, neglecting or delaying to make such examination or inspection, shall, for such offence, forfeit the sum of twenty shillings to any person who shall sue for the same.

Penalty on inspectors.

SECT. 6. *And be it further enacted*, That if any person shall brand any cask of pot or pearl-ashes manufactured by himself, with the name of any other person than his own, or shall brand any such cask manufactured by another person with his own name, or shall counterfeit any brand belonging to, or proper to be used by the said inspector, or any of his deputies, or shall impress or brand any cask of pot or pearl-ashes with any brand or brands of such inspectors, or with any counterfeited as aforesaid, he shall forfeit and pay for each offence, the sum of fifty pounds.

Penalty for counterfeiting brands.

SECT. 7. *And be it further enacted*, That if any person shall empty any cask or casks of pot or pearl-ashes, inspected and branded as by this act is required, and put in any other pot or pearl-ashes for sale or exportation, without first cutting out the said brand marks, the person or persons so offending shall for each cask forfeit and pay the sum of fifty pounds.

Penalty for shifting the contents of a cask.

SECT. 8. *And be it further enacted*, That every manufacturer of pot and pearl-ashes within this state, shall brand each cask containing the same, with the initial letter of his christian name, and his surname at full length, with the name of the town where the same shall be manufactured, before the same shall be removed from the manufactory, under the penalty of five shillings for each cask so removed without being previously branded as aforesaid.

Casks to be branded with the manufacturer's name.

SECT. 9. *And be it further enacted*, That there shall be an inspector of pot and pearl-ashes for this state, who shall be well skilled in the knowledge and properties of the same, to be appointed by the president, by and with the advice and consent of the council, and to be by them removeable at pleasure, and who, before he shall enter upon the duties of his office, shall give bond with sufficient sureties to the treasurer of this state, in the penal sum of one thousand pounds for the faithful discharge of his duty, and shall also be sworn faithfully to perform the same. And such inspector shall have power, when so qualified, to appoint, and shall appoint so many deputy inspectors as are needful, as he shall judge necessary, for whom he shall be answerable, and shall take bonds from them with sufficient

Inspector to be appointed.

surety or sureties, and they shall also be sworn to the faithful discharge of their duty. And the said inspector shall not be entitled to receive from any deputy he may appoint, more than one penny for each hundred weight of pot or pearl-ashes such deputy may inspect agreeably to this act.

Fines—how
to be dispos-
ed of.

SECT. 10. *And be it further enacted*, That all fines and forfeitures mentioned in this act, under the sum of twenty pounds, shall be sued for and recovered by any person to his own use ; but if the sum shall amount to twenty pounds and upwards, then one half to the use of the person suing, the other to the use of this state : the actions to be commenced in any court proper to try the same. And all casks of pot and pearl-ashes seized as aforesaid, may be prosecuted to condemnation by the officer seizing the same, by libel in the superior court of judicature in the county where the same is seized, and after condemnation the same shall be sold at publick vendue, by the sheriff, and after the payment of all charges, one half of the remainder shall be paid by him into the treasury of this state, and the other half to the officer who seized such pot or pearl-ashes.

Repealing
clause.

SECT. 11. *And be it further enacted*, That all former laws respecting the inspection and assay of pot and pearl-ashes, so far as they relate to the same, be, and hereby are repealed.

Passed December 28, 1791.



Passed June
20, 1793.

AN ACT to alter and amend an act passed the twenty-eighth day of December, Anno-Domini, 1791, entitled, "An act for the Inspection of Pot and Pearl-Ashes."

WHEREAS the said act is found insufficient to answer the end thereby intended ;—Therefore,

inspectors to
be appointed.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened*, That his excellency the governor of said state for the time being, by and with the advice of council, be, and he hereby is authorized and empowered to appoint one inspector of pot and pearl-ashes in Durham, one in Dover, and one in Concord, and such other inspectors in said state as he shall think necessary ; and each inspector so appointed shall give bonds to the treasurer of said state, in a sufficient sum for the faithful performance of his duty.

Liberty to ex-
port without
inspection.

SECT. 2. *And be it further enacted*, That any citizen of this state shall have liberty to export by water, without inspection, pot or pearl-ashes to any port within the United States of America, he or they giving bonds to some one of said inspectors, in a reasonable sum, that the same shall be landed in some port within the said states, and that the said pot or pearl-ashes shall not by him or them be shipped for any foreign market until the same shall be inspected.

SECT. 3. *And be it further enacted,* That each inspect- Fees-
or that shall be appointed by his excellency the governor,
with advice of council, shall have and receive the same fees
for inspection as mentioned in the former act.

SECT. 4. *And be it further enacted,* That it shall be
the duty of each and every person transporting pot or pearl-
ashes out of this state without inspection, to produce to the
inspector to whom he gave bonds within six months from the
date of his said bonds, a certificate from the proper officer
in some one of the United States, that said pot or pearl-ash-
es transported as aforesaid has been duly inspected.

Approved June 20, 1793.

AN ACT to regulate the inspection of Beef and Pork Passed June
intended to be exported from this state. 18, 1802.

SECT. 1. **B**E it enacted by the senate and house of rep-
resentatives, in general court convened, That from and af-
ter the first day of October next, no person or persons
whomsoever, shall ship or export from this state any salted
beef except in tierces, barrells, or half-barrells, of the quality
and dimensions herein after provided, and the contents
thereof are inspected and packed, and unless the casks, con-
taining the same, are branded agreeably to the directions in
this act.

SECT. 2. *And be it further enacted,* That there shall Inspector
be an inspector-general of beef, for this state, who shall be general to be
well skilled in the knowledge of the same, to be appointed appointed.
by the governor, by and with the advice and consent of
the council, and to be by them removeable at pleasure, who, be-
fore he shall enter on the duties of his office, shall give
bonds, with sufficient sureties, to the treasurer of this state,
in the penal sum of four thousand dollars, for the faithful,
discharge of his duty, and shall also be sworn faithfully to
perform the same; and such inspector shall have power,
when so qualified, to appoint, and shall appoint, deputy-in- May appoint
spectors, for whom he shall be answerable, and who shall be deputies.
removeable by him at pleasure, in the several counties in this
state, to accommodate the citizens without any unreasona-
ble delay, and shall take bonds from them to himself, with
surety to his satisfaction, in a sum not exceeding one thous-
and dollars, nor less than three hundred dollars; and the
said deputy-inspectors shall also be sworn to the faithful
discharge of their duty; and the inspector-general is hereby
authorized to administer the several oaths required by this
act: and it shall also be the duty of said inspector, and his
deputies, to attend, as soon as may be, within twenty-four
hours after request made, at any suitable place within the
county where he resides, for the purpose of inspecting any
quantity of beef exceeding thirty barrells; and it shall be
their duty to see the same weighed, packed, and salted.

Deputies to
make returns.

Inspector-
general to
make re-
turn.

Quality of
beef.

To be sorted,
divided,

and branded
according to
quality.

SECT. 3. *And be it further enacted*, That it shall be the duty of every deputy so appointed, to make return to the inspector-general, once in every six months, of the number of tierces, barrels, and half-barrels, of beef inspected by them, agreeably to the directions of this act; and it shall be the duty of the inspector-general, in the month of June annually, to make a return to the governor and council, of the whole number of tierces, barrels, and half-barrels, of beef inspected according to the directions of this act, by him or his deputies, the year preceding, designating in the return the different sorts of beef, and the places at which it was inspected.

SECT. 4. *Be it further enacted*, That no beef, which shall be killed after the first day of October next, shall be packed or re-packed in tierces, barrels, or half-barrels, for exportation, unless it be of fat cattle not under three years old; that all such beef shall be cut into pieces as nearly square as may be, and which in size shall not exceed eight pounds weight, nor be less than four pounds weight. That all beef which the inspector or deputy-inspector shall find on examination to have been killed at a proper age, to be fat and otherwise to be good and merchantable, shall be sorted and divided by him into four different sorts, for packing or re-packing into tierces, barrels, or half-barrels, to be denominated *Mess*, *Cargo No. 1.* *Cargo No. 2.* and *Refuse*: mess beef shall consist of the choice pieces of oxen or steers, well fattened, and weighing six hundred pounds or upwards; the shin, shoulder, clod, and neck, shall be taken from the fore quarters, and the legs and the leg-rand from the hind quarters; and each tierce, barrel, and half-barrel, containing beef of this description, shall be branded on one of the heads with the words *mess beef*: *Cargo No. 1.* shall consist of choice pieces of oxen, steers, cows, or heifers, not under four hundred pounds weight, without any necks or shanks; on one head of each tierce, barrel, or half-barrel, containing beef of this description, shall be branded *Cargo No. 1.*: *Cargo No. 2.* shall consist of fat cattle of all descriptions not before mentioned, of three years old and upwards, (bulls excepted) with not more than half a neck and two shanks to each barrel, and without any hocks, and the same proportion to the tierce and half-barrel; each tierce, barrel, and half-barrel of which shall be branded *Cargo No. 2.*: All other parts of cattle that are not above described, of wholesome quality, which shall be packed or re-packed for exportation, (including bulls) shall be branded on one head *refuse*. And every barrel of beef shall be well salted with seventy-five pounds of clean St. Ubes, Isle-of-May, Lisbon, or Turks Island salt, or other salt of equal quality, or eighty pounds of coarse Liverpool salt, or other salt of equal quality, exclusive of a pickle as strong as salt will make it, to which shall be added six ounces of salt-petre to each bar-

rel of mess beef, and four ounces to each barrel of cargo No. 1, and cargo No. 2; and each tierce and half-barrel of beef shall be salted in the same manner, and with the same quantity of salt and salt-petre in proportion to the quantity of beef they contain.

SECT. 5. *Be it further enacted*, That from and after the first day of October next, every tierce, barrel, and half-barrel, in which beef shall be packed or re-packed for exportation, shall be made of good seasoned white oak or white ash staves and heading, free from any defect; each tierce shall contain three hundred pounds weight of beef, and each barrel two hundred pounds weight of beef, and each half barrel one hundred pounds weight of beef; the barrels to measure sixteen inches and a half between the chimes, and to be twenty-eight inches long; and the half-barrels to contain not less than fifteen gallons; the tierces, barrels, and half-barrels, to be covered three fourths of the length with good oak, ash, or walnut hoops, leaving one fourth in the middle; the heads to be made of a proper thickness, and the hoops to be well set and drove together.

Quality of
casks

SECT. 6. *Be it further enacted*, That every tierce, barrel, and half-barrel, in which beef is packed or re-packed for exportation, shall be branded with the first letter of the christian name, and the surname at length, of the inspector who has inspected the same, with the name of the town where it was inspected, in legible letters, with the addition of *N. Hamp.* (for New-Hampshire) and the words *for bounty*: and every tierce, barrel and half-barrel of beef, of the three first sorts, shall also be branded with the name of the person for whom the beef is packed.

Casks to be
branded.

SECT. 7. *Be it further enacted*, That no deputy, appointed by virtue of this act, shall inspect or brand any cask of beef out of the town or county for which he shall be appointed, under the penalty of fifty dollars; and if any person, other than the said inspector or his deputy, shall presume to stamp or brand any cask of beef in the manner directed by this act, every person so offending shall forfeit the sum of fifty dollars, for each and every cask so unlawfully branded.

No deputy
shall inspect
out of the
town or coun-
ty for which
he was ap-
pointed.

SECT. 8. *Be it further enacted*, That the inspector general, or his deputy, appointed by virtue of this act, shall be paid for every tierce of beef he may inspect and brand, twelve and a half cents; for every barrel so inspected and branded, ten cents; and for every half-barrel, six cents; exclusive of cooperage; the charge of inspection to be paid by the shipper: and the inspector-general shall be entitled to receive from any deputy he may appoint, four cents and no more for each tierce, three cents for each barrel, and two cents for each half-barrel of beef, said deputy may inspect and brand according to the directions of this act.

Fees for in-
spection

Penalty for
neglect or
fraud, &c.

SECT. 9. *Be it further enacted*, That if any inspector, or deputy-inspector, appointed by virtue of this act, shall be guilty of any neglect or fraud in inspecting any beef contrary to the true intent and meaning of this act, or shall mark with their respective brands any cask containing beef which he has not actually inspected, he shall forfeit and pay ten dollars for each and every cask so falsely marked.

Penalty for
shifting.

SECT. 10. *Be it further enacted*, That if any person shall intermix, take out, or shift any beef out of any cask inspected or branded as by this act is required, or put in any other beef for sale or exportation, contrary to the intention of this act, the person or persons so offending, shall, for each and every offence, forfeit and pay the sum of twenty dollars.

Master or
owner to
produce a
certificate,

SECT. 11. *Be it further enacted*, That no salted beef shall be exported out of this state, unless the master or owner of the vessel produces to the collector, or any other officer authorized by the laws of the United States to clear vessels out, a certificate from the inspector-general, or his deputy, that the same has been inspected and branded according to the directions in this act, and each certificate shall express the number of tierces, barrels and half-barrels of beef of each sort; and the master or owner of every vessel in which beef is so exported, on producing said certificate, shall take and subscribe the following oath before the officer authorized as aforesaid:

and make
oath.

I, A. B. of do swear, that according to the best of my knowledge and belief, the certificate herunto annexed contains the whole quantity of salted beef on board the master; and that no salted beef is shipped on board said vessel, for the ship's company, on freight or on cargo, but what is inspected and branded according to the law of this state.

So help me GOD.

Inspector's
fees for his
certificate.

SECT. 12. *And be it further enacted*, That for each and every certificate given by the inspector or deputy-inspector for beef exported, he shall receive for a quantity not exceeding one hundred tierces, barrels, or half-barrels, twenty-five cents; for every certificate for more than one hundred and less than two hundred, fifty cents; and for every certificate including more than two hundred tierces, barrels, or half-barrels, one dollar; to be paid by the shipper: and the inspector and deputy-inspector are hereby severally directed to give such certificates whenever requested.

How or in
what manner
penalties may
be recovered.

SECT. 13. *Be it further enacted*, That all penalties and forfeitures, arising by force and virtue of this act, shall be recovered by action of debt or information, in any court proper to try the same; one moiety thereof to the use of the town where the offence shall be committed, and the

other moiety to him or them who shall inform or sue for the same, except where the seizure and information shall be made by the inspector or his deputy, as is herein after provided.

SECT. 14. *Be it further enacted*, That nothing in this act shall prevent the exportation of rounds of beef in kegs, or tubs, as is now practised : *Provided however*, That the name of the owner, and the town where he resides, shall be branded on one head of each keg or tub, under the penalty of one dollar for each keg or tub not branded.

SECT. 15. *Be it further enacted*, That if any person or persons shall export, or ship for exportation, from this state, any salted beef not inspected and branded as by this act is directed, every such exporter or shipper, and the master of every vessel having on board such uninspected beef, shall, on conviction, respectively forfeit and pay the sums following : the owner or exporter shall forfeit and pay the sum of six dollars, and the master of every vessel having the same on board, the sum of two dollars, for every cask exported or shipped for exportation. And it shall be lawful for any justice of the peace, upon any information given of any beef being put on board any vessel as aforesaid not inspected and branded, as is required by this act, to issue his warrant, directed to the sheriff or his deputy, or to a constable, requiring them respectively to make seizure of any such salted beef not marked and branded as aforesaid, and to secure the same in order for trial ; and said officers are hereby respectively required and empowered to execute the same ; and it shall be the duty of every person, when required, to give the necessary aid for that purpose, on pain of forfeiting five dollars for his refusal. And it shall also be lawful for the inspector-general, or any of his deputies, having information or knowledge of any quantity of beef being laden in any port or place within this state for exportation, in respect to which there shall not be a conformity to this act, to make seizure thereof forthwith, or to file a libel or information thereupon, in any court proper to try the same ; and upon trial of such beef so seized, in case* a breach of this act shall be proved, it shall be liable to condemnation and forfeiture ; one moiety to the use of the state, and the other moiety to the use of the officer seizing and prosecuting for the same.

SECT. 16. *And be it enacted*, That from and after the first day of October next, no person or persons whomsoever, shall ship or export from this state any salted pork, except in barrels or half-barrels of the quality and dimensions herein after provided, and the contents thereof are inspected and packed, and unless the casks containing

Penalty on exporters, &c.

No person shall ship salted pork till inspected

* In the original it is in case of a breach, &c.

the same are branded agreeably to the directions in this act.

How sorted.

SECT. 17. *Be it further enacted*, That from and after the first day of October next, all pork packed or re-packed in barrels or half-barrels for exportation, shall be sorted and divided by the inspector or his deputy, and denominated as follows : *bone middlings*, *navy mess pork*, *cargo No. 1.* *cargo No. 2.* and *refuse pork* ; and in all cases the following parts shall be taken out as refuse, viz. nose pieces, ears, brains, tails, feet and lard. *Bone middlings* shall consist of middle pieces taken from hogs well fattened, weighing two hundred and thirty pounds or upwards. *Navy mess pork* shall consist of all parts of the carcass well fattened, weighing from one hundred and sixty pounds to two hundred and thirty pounds, except the head, fore and hind legs, the shoulder joint, lard, and refuse parts above mentioned. *Cargo No. 1.* shall consist of all parts of hogs well fattened, averaging two hundred and twenty pounds or upwards, and each of which shall weigh not less than one hundred and eighty pounds, and to have no more heads, legs, shoulders, or other coarse parts, than belong to one carcass, deducting the lard and refuse as above. *Cargo No. 2.* shall consist of all parts of one and a half hog, well fattened, which shall weigh two hundred pounds, deducting the lard and refuse as above. *Cargo No. 2.* also in half barrels, shall consist of pig-pork, all parts of one carcass or not, and not to contain the head or legs of more than one carcass, excluding the lard and refuse as above. *Refuse pork* shall consist of all other kinds of pork, of an unmerchantable but wholesome quality. Barrels filled with pork heads or feet, shall be branded *pork heads* or *feet*, (as the case may be) and in all cases where legs of pork are taken out to bacon, or for any other purpose, the weight shall not be made up with heads or shoulders, but other parts of the carcass not less valuable than the legs would be if they were salted. And each barrel of pork shall be well salted, with seventy pounds of clean coarse salt, exclusive of a strong pickle.

Quality of the casks.

SECT. 18. *Be it further enacted*, That every barrel and half-barrel, in which pork shall be packed or re-packed for exportation shall be made of good seasoned white oak or white ash staves and heading, free from any defect ; each barrel shall contain two hundred pounds weight of pork ; the barrels shall measure seventeen and one quarter inches between the chimes, and contain not less than thirty-one gallons and a half, to be covered three fourths of the length with good oak, ash, or walnut hoops, leaving one fourth in the centre.

Casks, &c. to be branded.

SECT. 19. *And be it further enacted*, That all barrels and half-barrels of pork, packed or re-packed for exportation, shall be branded with the first letter of the christian

name and the surname at length of the inspector who has inspected the same, with the name of the town where it was inspected, in legible letters, with the addition of *N. Hamp.* (for New-Hampshire) and every barrel and half-barrel of the three first sorts, shall also be branded with the name of the person for whom the pork was packed, and each barrel shall be branded on one of the heads with the quality of the pork it contains.

SECT. 20. *And be it further enacted*, That the inspector-general and deputy-inspectors of beef, to be appointed by virtue of this act, shall also be inspectors of pork; and all the rules, certificates, and regulations, the fees, fines and forfeitures, relating to the inspection and exportation of beef, mentioned in this act, and the manner of recovering the same, shall extend to all barrels and half-barrels of pork packed for exportation, agreeably to the directions of this act, excepting in such particulars where provision is herein otherwise expressly made.

Inspectors of beef to be inspectors of pork.

SECT. 21. *And be it further enacted*, That no salted pork, packed or re-packed after the first day of October next, shall be exported from this state, unless the master or owner of the vessel produce to the collector or any other officer authorized by the laws of the United States to clear out vessels, a certificate from the inspector-general or his deputy, in the same form, and shall also take and subscribe an oath in the same manner and form (*mutatis mutandis*) as is by this act required respecting the exportation of beef.

SECT. 22. *And be it further enacted*, That all the provisions, penalties, regulations and requirements, contained in this act, shall be construed to extend, and shall extend, to all beef and pork, transported or intended to be transported, coastwise, from any port or place in this state, to any of the United States, or shipped on board any vessel for any purpose whatever.

SECT. 23. *And be it further enacted*, That all former laws, so far as they respect the inspection of beef and pork, be, and they hereby are repealed: *Provided, nevertheless*, That they shall be considered as in full force with regard to all actions and prosecutions which may be depending for any penalty or forfeiture incurred for the breach of the same: *And provided also*, That nothing in this act contained, shall be construed to affect* the exportation of any beef or pork that shall be duly inspected before the said first day of October, agreeably to the laws now in force.

Repealing clause.

Proviso.

Approved June 13, 1862.

* It is effect in the original.

Passed Dec. 26, 1805. *AN ACT in addition to an act, entitled, "An act to regulate the inspection of Beef, &c."*

Beef denominated Cargo No. 3.

Weight.

SECT. 1. *BE it enacted by the senate and house of representatives in general court convened,* That from and after the passing of this act, the inspector or deputy inspectors shall and may be authorized to brand and designate a sort or quality of beef to be denominated cargo No. 3, in addition to the qualities pointed out in the act to which this is an amendment—cargo No. 3, shall consist of all neat cattle weighing two hundred and upwards, not before described and included in the former numbers or qualities; each barrel shall consist of pieces of beef of an average quality of the creature, including one neck, four shanks, leg-rands and shoulder clods selected from mess and cargo No. 1.

SECT. 2. *Be it further enacted,* That all beef packed and branded No. 3, shall contain the same weight, and subject to the regulations and provisions which by law is already established for inspecting beef.

Approved December 26, 1805.

Passed June 18, 1802. *AN ACT to regulate the inspection of Butter and Hogs Lard intended to be exported from this state.*

No person to ship butter, &c. until inspected.

Casks, &c. to be branded.

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened,* That no person or persons whomsoever, from and after the first day of June next, shall ship any butter or hogs lard for exportation, before he shall first have submitted the same to the view and examination of the inspector or his deputy, who shall be appointed as is herein after provided, who shall inspect and prove all butter and hogs lard in casks, firkins, or kegs, that shall be intended to be laden on board any vessel for exportation. And every such inspector, or his deputy, shall examine the casks, kegs, or firkins, containing either of the said commodities intended to be exported as aforesaid, and with an hollow iron searcher, shall, from one side of the head of said casks, kegs, or firkins, perforate diagonally to the other head, and thereby draw out so much of the article as shall determine the quality of the whole, and see if it be sweet and in all respects fit to be exported, without danger of spoiling, to any foreign market; and particularly that butter be well preserved with a due proportion of good and clean fine salt: and every cask, keg, or firkin of butter or hogs lard, which, according to the best judgment of the inspector, appears to be good and merchantable as aforesaid, he shall distinguish by the words *First, Second, or Third*, as the quality may be; and all other butter shall be distinguished by the word *refuse*; and each quality shall be branded in

plain legible letters, together with the letters *N. Hamp.* (for New-Hampshire) and the name of the town where it shall be thus inspected, with the initial letter of the inspector's christian name and his surname at large, and the word *butter*, or *lard*, as the case may be; for which services, and inspecting and weighing the same, and delivering to the owner an invoice or weigh-note, under his hand, of the weight of each cask, keg, or firkin, he shall have and receive seven ^{Fees} cents for every cask, keg or firkin, so inspected, to be paid by the purchaser of the same.

SECT. 2. *And be it further enacted*, That from and after the first day of June next, every cask, keg, or firkin, in which butter or hogs lard shall be packed for foreign exportation, shall be made of sound well seasoned white oak or white ash staves and heading, full bound, of one or other of the following dimensions, viz. fifteen inches in length, and ten and a half inches diameter in the head; twelve and a half inches in length, and eight and a half inches diameter in the head; twelve inches in length, and seven and a half inches diameter in the heads; or ten inches in length, and six inches diameter in the heads. ^{Casks, &c. how to be made, and their dimensions.}

SECT. 3. *And be it further enacted*, That each cask, keg, or firkin, before any butter or lard be packed therein, shall be filled with a strong brine, which shall remain therein three days; and as soon as the brine is emptied from the cask, keg, or firkin, it shall be weighed by the owner of the butter or lard to be packed therein, who shall, with a marking iron, mark on one of the heads thereof, the full weight of the cask, keg, or firkin, and shall brand or imprint with a burning iron, the initial letter of his christian name and his surname at large; and in case he shall falsely mark the same, he shall, on conviction thereof, forfeit and pay three dollars. ^{Casks, &c. to be weighed.}

SECT. 4. *And be it further enacted*, That no butter or hogs lard shall be exported from this state, unless the master or owner of the vessel produces to the collector or any other officer authorized by the laws of the United States to clear vessels out, a certificate from the inspector-general or his deputy, that the same has been inspected, marked and branded, according to the directions in this act; each certificate shall express the number of casks, and their weight; and the master or owner of any vessel in which butter or hogs lard is so exported, on producing said certificate, shall take and subscribe the following oath before the officer authorized as aforesaid; ^{Master of vessel to produce certificate.}

I, A. B. of, do swear, that according to the best of my knowledge and belief, the certificate hereto annexed contains the whole quantity of butter (or hogs lard, as the case may be) on board the, master, and that no butter (or hogs lard, as the case may be) is shipped on board said vessel, for the ship's company, on freight, or on

cargo, but what is inspected, marked, and branded, according to the law of this state. *So help me GOD.*

And every inspector, or deputy-inspector, shall receive thirty cents for every certificate so given, and it shall be his duty to give such certificates when required.

Inspectors refusing to examine.

SECT. 5. *And be it further enacted,* That if any inspector of butter or hogs lard shall, on application made for the examination of any butter or hogs lard as aforesaid, unreasonably refuse, neglect or delay to proceed to such examination and inspection, for the space of three hours after such application so made to him, the inspector so refusing, neglecting or delaying to make such examination or inspection, shall, for each offence, forfeit and pay the sum of two dollars.

Penalty for shipping without inspection.

SECT. 6. *And be it further enacted,* That if any person or persons shall export or ship for exportation from this state, any butter or hogs lard not inspected, marked, and branded, as by this act they are directed; every such exporter or shipper, and the master of every vessel having on board such uninspected butter or lard, shall on conviction thereof, respectively forfeit and pay the sums following: the owner or exporter shall forfeit and pay the sum of one dollar, and the master of every vessel having the same on board, fifty cents, for each cask exported or shipped for exportation. And it shall be the duty of any justice of the peace, upon any information given of any butter or hogs lard being put on board any vessel as aforesaid, not inspected, marked, and branded, as by this act is required, to issue his warrant, directed to the sheriff or his deputy, or to a constable, requiring them respectively to make seizure of any such butter or hogs lard not marked and branded as aforesaid, and to secure the same in order for trial; and said officers are hereby respectively required and empowered to execute the same; and it shall be the duty of every person, when required to give the necessary aid for that purpose, on pain of forfeiting and paying five dollars for his refusal: And it shall also be lawful for the inspector of butter and hogs lard, or any of his deputies, having knowledge or information of any quantity of butter or hogs lard being laden in any port or place within this state, for exportation, in respect to which there shall not be a conformity to this act, to make seizure thereof forthwith, or to file a libel or information therefor, in any court proper to try the same; and upon trial if* such butter or lard, so seized, in case a breach of this act shall be proved, shall be liable to condemnation and forfeiture, to the use of the officer seizing and prosecuting for the same.

Penalty for counterfeiting brands.

SECT. 7. *And be it further enacted,* That if any person shall counterfeit any brand, belonging to, or proper to be used by said inspector, or any of his deputies, or shall

* It is so in the original: *if* should have been omitted.

impress or brand any cask, keg, or firkin of butter or hogs lard, with any brand or brands of such inspector, or with any counterfeit brand as aforesaid, he shall forfeit and pay for each offence, the sum of ten dollars.

SECT. 8. *And be it further enacted*, That if any person shall empty any cask, keg, or firkin of butter or hogs lard, inspected and branded as by this act is required, and put in any other butter or hogs lard for sale or exportation, without first cutting out said brands and marks; the person or persons so offending, shall, for each such cask, keg, or firkin, forfeit and pay the sum of ten dollars.

Penalty for shifting casks, &c.

SECT. 9. *And be it further enacted*, That all fines and forfeitures mentioned in this act, shall and may be sued for and recovered, with costs, by any person to his own use, before a justice of the peace, or any other court proper to try the same, with liberty of appeal as in other civil actions.

In what manner fines may be recovered.

SECT. 10. *And be it further enacted*, That there shall be an inspector-general of butter and hogs lard for this state, who shall be skilled in the knowledge and properties of those commodities, to be appointed by the governor, with advice and consent of the council, to be by them removeable at pleasure; and who, before he shall enter upon the duties of his office, shall give bond, with sufficient sureties, to the treasurer of this state, in the penal sum of one thousand dollars, for the faithful discharge of his duty; and who shall also be sworn faithfully to discharge the same: And such inspector, when so qualified, shall have power to appoint, and shall appoint deputy-inspectors, for whom he shall be answerable, and who shall be removeable by him at pleasure, in Portsmouth and in such other towns and places within this state as may accommodate the citizens without any unreasonable inconvenience or delay; and each deputy-inspector, so appointed, shall give bonds to the inspector, with sufficient surety or sureties, in the penal sum of five hundred dollars, for the faithful discharge of their duty; and they shall also be sworn to the faithful discharge of their duty.

Inspector-general to be appointed

SECT. 11. *And be it further enacted*, That the inspector-general shall be entitled to receive from any deputy he may appoint, two cents and no more for each keg, cask or firkin of butter, or hogs lard, said deputy may inspect and brand, according to the directions contained in this act.

Inspector's fees.

Approved June 18, 1802.

AN ACT for regulating the manufacture and sale of
Bread.

Passed Dec. 25, 1805

WHEREAS it is expedient that so necessary an article of consumption as bread, should be so far regulated, that the citizens of this state might not be exposed to fraud as to the

weight of bread ; and as it is highly reasonable that bread, like every other article of commerce or manufacture, should be sold by some common standard easily discernible by the purchaser.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That from and after the first day of March next, all soft bread, whether baked in loaves or biscuit, which shall be exposed to sale by any baker or other person, shall be sold by weight.

SECT. 2. *Be it further enacted,* That all soft biscuit which shall hereafter be offered for sale shall weigh four or eight ounces, and all loaves of soft bread shall be of some one of the following weights, viz. a half of one pound, one, two, three or four pounds ; and each and every soft biscuit and loaf shall be marked with the initials of the baker's christian name and his surname at length, and the weight of such biscuit and loaf ; and if any baker or other person shall offer for sale any soft biscuit or loaves which shall not severally be marked and conform to one of the weights before mentioned, he shall forfeit and pay ten dollars, to be recovered by action of debt before any justice within and for the county where such offence shall happen, by any person who shall sue for the same, together with legal costs ; one half of the penalty aforesaid to be to his own use, and the other half to the use of the poor of the town where such baker resides.

Approved December 25, 1805.

Passed Jan.
20, 1789.

AN ACT to preserve the Fish in Piscataqua river, and the branches thereof.

WHEREAS the fishing in Piscataqua river, and in the harbour near the mouth of said river, with setting lines and seines, hath already in a great measure, obstructed and turned the course of the cod fish in said river, and the fishing for bass and blue fish in winter hath almost destroyed the bass and blue fish in said river, and the branches thereof, so that these useful fisheries are in imminent danger of being lost, unless prevented by an act of the general court :—Therefore,

Seines or setting lines to be used only for catching smelts and shad.

Be it enacted by the senate and house of representatives, in general court convened, That from and after the making of this act, no person shall be allowed to fish in the said river, or harbour, or any of the branches thereof within this state, where the tide ebbs and flows, with any seine or setting line, for any fish whatsoever, excepting smelts and shad. And no person shall, by any way or means whatsoever, catch, kill or destroy any bass or blue fish in said river, or the branches aforesaid, from the first of December to the first of April annually, on pain that any and every person offending in any of the particulars aforesaid, shall forfeit and pay for every such offence the sum of two pounds, to be re-

Penalty

covered by action or information, before any justice of the peace, within the county where the offence may be committed, one half to the use of the state, the other half to the informer. And any person or persons are hereby authorized to destroy any seine or setting lines, or nets set for fishing in said river or the branches thereof, excepting those used for catching smelts and shad, and in case of being sued therefor, may plead the general issue, and give the special matter in evidence, and shall recover double costs. And whosoever shall knowingly sell, or buy any bass, blue fish, or cod fish taken contrary to this act, shall forfeit ten shillings, to be recovered by action or information, before a justice of the peace, for the use of the informer, allowing an appeal from any such judgment as the law in other cases directs.

Passed January 20, 1789.

AN ACT for the preservation of Bass in Piscataqua river, and repealing all laws heretofore made for that purpose, passed June 27, 1809.

This act repealed so much of the above act of the 20th January, 1789, as relates to the catching of bass, and contained divers provisions on the subject: but as it was limited to 5 years it expired 27 June, 1814, consequently the act of 20th Jan. 1789, is now in full force.—As all prosecutions for offences against the temporary act of 27 June, 1809, were limited to 3 months, it is not necessary to publish the act.

AN ACT for the preservation of Salmon and Shad in Connecticut river. Passed Jan. 9, 1795.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That after the passing of this act, if any person shall, between the first day of April and the first day of July, in any year, catch, kill or destroy any salmon or shad in any part of Connecticut river, within this state, or in any stream within this state, running into said river; or shall use any seine, net, spear or stab, or any kind of machine or instrument, for the purpose of catching salmon or shad, within the limits aforesaid, at any other time than between the rising of the sun on Tuesday morning, and the rising of the sun on Saturday morning, in the same week; such person shall for every such offence forfeit the sum of ten dollars, to be recovered with costs of suit, in an action of debt, by any person who shall sue for the same before any justice of the peace, within the county where such offence shall be committed; one half of said sum for the use of the person who shall sue therefor, and the other half for the use of the said county.

Time prohibited from catching or killing fish.

Penalty.
Forfeiture how to be recovered.

SECT. 2. *And be it further enacted, That if any seine, net, spear or stab, or any kind of machine, or instrument made or used for the purpose of catching salmon or shad, at any other time than that which is by this act allowed for catching salmon and shad in said river, shall be found in any*

Nets, &c. to be forfeited.

part of said river, within this state, or in any of the streams aforesaid, it shall be forfeited to the use and become the property of him or them who shall find the same and remove it from said river : and if any pot for the purpose of catching fish shall at any time be found within the limits aforesaid, it shall be forfeited and appropriated in manner above mentioned. And if any person or persons shall between the first day of April, and the first day of July, in any year, set, draw, or use within the limits aforesaid, any seine, or net, more than twenty rods in length, for the purpose of catching salmon or shad, such person or persons, shall, for every such offence, forfeit the sum of ten dollars, to be sued for, recovered and appropriated in the same manner as the forfeitures for catching salmon and shad.

Fish inspector to be appointed.

Inspectors to be sworn.

Authorized to command assistance to remove nets, &c.

SECT. 3. *And be it further enacted*, That it shall be the duty of every town within this state, bounding on the state of Vermont, to choose every year, at their annual town meeting, a fish inspector, whose duty it shall be to inspect said river, and to take and remove therefrom every machine and instrument for catching salmon or shad, which shall therein be found at any time, other than that by which it is lawful by this act, to catch salmon and shad in said river; and each of the said inspectors shall be sworn to the faithful performance of his duty, and be hereby authorized to command such assistance as shall be necessary to enable him to remove from said river every machine and instrument which shall be forfeited by this act; and every person who shall be commanded by any one of the inspectors aforesaid to assist, and shall actually assist him in taking and removing from said river any of the machines, or instruments forfeited as aforesaid, shall share equally with such inspector in the property of the same. *Provided, nevertheless*, That the duty and authority of each of said inspectors shall be confined within the limits of the town wherein he shall be chosen.

SECT. 4. *And be it further enacted*, That all acts and laws heretofore made relative to catching salmon or shad in Connecticut river, be, and they hereby are repealed.

Approved January 9, 1795.

Passed June 20, 1811.

AN ACT to prevent the destruction of Salmon, Shad and Alewives in Merrimac river, and the several streams falling into the same, and for repealing certain laws heretofore made for that purpose.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That no person, after the passing of this act, shall catch, kill or destroy any salmon, shad or alewives in any part of Merrimac, Pemigewassett, or Winnipissiogee rivers within this state, or any of the waters falling thereinto, at any time from sun-rising

on any Thursday, to sun-rising on any Monday, next following, on penalty of forfeiting for each fish, so caught, killed or destroyed, the sum of five dollars.

Fishing on certain days inhibited.
Forfeiture.

SECT. 2. *And be it further enacted*, That if any person or persons shall, within the time inhibited by this act, set, use, continue in or upon any of the waters aforesaid any seine, net, pot or other implement used for catching or destroying said fish, such person or persons shall, for each offence, forfeit and pay the sum of thirteen dollars, and it shall and may be lawful for any person, to take, remove, destroy or carry away any seine, net or implement, so found in or upon the waters aforesaid, and convert the same to his own use, or may sue for, and recover the same in any court proper to try the same.

Penalties for setting nets, &c. within the time inhibited.

SECT. 3. *And be it further enacted*, That no person shall at any time, or on any day, catch, kill or destroy any salmon, shad or alewives, within five rods of any mill-dam, or any sluice-way in either of the said rivers, or any stream falling thereinto, or on the lower falls of Nashua river, or within fifteen rods of the mouth of any of the streams falling into the said Merrimac, (excepting the river Piscataquog) on penalty of forfeiting the sum of five dollars for each fish so caught, killed or destroyed.

Penalty for catching near dams, mouths of certain streams, &c.

SECT. 4. *And be it further enacted*, That no person, from the first day of May, to the last day of October, annually, shall erect, build or continue any mill dam, ware or other obstruction upon, or across the said rivers Merrimac, Pemigewassett or Winnipissiogee, or any of the streams falling into the same, where the aforesaid fish usually pass, or heretofore have passed, except as is hereinafter excepted, so as thereby to prevent the free passage of said fish in said streams, on penalty of forfeiting the sum of fifty dollars for every mill-dam or other obstruction, so erected, and also the sum of thirty dollars for continuing the same one week, and in that proportion for a longer or shorter time : *Provided, nevertheless*, That it shall and may be lawful for the owners or proprietors of mill seats upon Pemigewassett and Winnipissiogee rivers or any of the streams falling into the river Merrimac, to build dams across said rivers and streams, provided they keep open a sufficient passage-way for the fish, to be ascertained and accepted by the selectmen of the two next adjacent towns from the tenth day of May to the twentieth day of June, and from the twentieth day of August to the twentieth day of September annually.

No mill-dam or other obstruction to be erected across said rivers except.

A passageway for the fish to be kept open.

SECT. 5. *And be it further enacted*, That the proprietors of the Paddy seine so called, and the proprietors of the Pumpkin seine so called, have leave to draw their seines in the customary way and manner that they have heretofore lawfully practised, provided that they shall at no time have liberty to draw said seines nearer than two rods of the confluence of the waters of Naticook brook with Merrimac river.

Proprietors of Paddy and Pumpkin seines to retain their privileges, provided.

Fish wardens
to be chosen.

Penalty for
refusing to
serve.

Proviso.

Forfeitures
how recover-
ed.

Limitation of
prosecutions.

Notice to be
given to town
clerk.

Forfeitures
how appro-
priated.

Persons aid-
ing and assist-
ing liable.

Certain for-
mer acts re-
pealed.

SECT. 6. *And be it further enacted*, That each town adjoining Merrimac, Pemigewassett, and Winnipissiogee rivers, or any streams falling thereinto, where salmon, shad or alewives do, or have been heretofore known to frequent, shall at their annual meeting choose some suitable persons as fish-wardens, not exceeding five nor less than three, whose duty it shall be to see that the laws for the preservation of fish on said rivers and the streams falling into the same are duly observed ; and if any person legally chosen by any of said towns shall neglect or refuse, after being lawfully notified of his appointment, to take the oath prescribed by law for town officers, or if he shall neglect to execute the duties of the office, he shall forfeit and pay the sum of twenty dollars : *Provided however*, That no person shall be liable to serve more than once in four years.

SECT. 7. *And be it further enacted*, That all forfeitures before mentioned may be recovered in the county where the offence is committed, by an action of debt before any justice of the peace or any judicial court competent to determine the same : and all prosecutions for any offences against this act, shall be commenced within sixty days from the time the offence is committed, if made by any person who is not a fish-warden, and notice thereof shall be given in writing to the town clerk where the offence is committed at the commencement thereof ; but if by a fish-warden, it shall be commenced within six months and not afterwards. And all forfeitures arising under this act shall one moiety thereof go to the town where the offence is committed, and the other moiety to the person first complaining.

SECT. 8. *Provided always, and be it further enacted*, That all prosecutions commenced for offences against this act, committed on the river between the towns of Sandborn-ton and Northfield, may be brought in either of the counties adjoining the same ; this or any other law or custom to the contrary notwithstanding.

SECT. 9. *And be it further enacted*, That if any person or persons shall be found aiding or assisting in violating this act, he or they shall be liable to the same penalty and forfeiture as persons are for catching and destroying fish as aforesaid.

SECT. 10. *And be it further enacted*, That an act passed June 18th, 1790, entitled, "an act to prevent the destruction of salmon, shad and alewives in Merrimac river, and for repealing all laws heretofore made for that purpose"—and also an additional act thereto made and passed January 12th, 1795—and also one other additional act thereto made and passed December 20th, 1797—and also another act made and passed December 9th, 1800, entitled, "an act granting liberty to build dams across Winnipissiogee river under certain limitations"—and also "an act giving Samuel Gibson and others leave to draw seines near Naticook brook, &c."

made and passed December 27th, 1798, be, and the same are hereby respectively repealed. *Provided*, That no action now pending by virtue of said acts shall be affected hereby. *Provided also*, That this act shall not take effect until the first day of January, in the year of our Lord one thousand eight hundred and twelve.

Approved June 20, 1811.

AN ACT regulating the taking of Fish in Eastermac brook and Tarbell's brook, in Nottingham-West. Passed June 13, 1807.

WHEREAS Moses Hadley and others, by petition, have set forth that by the operation of a statute of this state, relative to the preservation of fish, the mills on Eastermac brook, at certain times are rendered useless :

SECT. 1. *Be it therefore enacted by the senate and house of representatives, in general court convened*, That an act of this state, entitled, "An act to prevent the destruction of salmon, shad and alewives in Merrimac river, and for repealing all the laws heretofore made for that purpose," and the two acts in addition to and in amendment thereof, be suspended, and hereafter not operative from the tenth day of July, to the last day of October annually, as far as it relates to the taking of fish in Eastermac brook aforesaid, for the said term of time.

SECT. 2. *And be it further enacted*, That no person after the passing of this act, shall catch, kill or destroy any alewives in Tarbell's brook aforesaid, at any time from sun-rising on Thursday, to sun-rising on the Monday next following, on penalty of forfeiting for each fish so caught, killed or destroyed, a sum not exceeding six dollars nor less than one dollar, at the discretion of the court or justice before whom the trial may be, to be recovered in the same way and manner as is in and by the acts last mentioned pointed out.

SECT. 3. *And be it further enacted*, That no action to recover any forfeiture aforesaid, shall be sustained unless commenced within sixty days next after the offence shall have been committed.

Approved June 13, 1807.

AN ACT for the preservation of Fish in Newfound Lake in the county of Grafton. Passed Dec. 23, 1803.

BE it enacted by the senate and house of representatives, in general court convened, That after the passing of this act, if any person shall, between the 10th day of October, and the 10th day of November, in any year, use any seine, spear or stab, for the purpose of catching any fish in said

Penalty for
taking fish at
certain times.

lake within the limits aforesaid, such person shall, for every fish so caught, forfeit and pay the sum of two dollars, to be recovered, with cost of suit, in any action of debt, by any person who shall sue for the same, before any justice within the county where such offence shall be committed; one half of said sum for the use of the person who shall sue for the same, and the other half for the use of the said county.

Approved December 23, 1808.

Passed June
17, 1811.

AN ACT for the preservation of the Fish in Long pond, so called, in Concord, in the county of Rockingham.

Penalty incurred by
fishing with
spear, &c.

How appropriated.

BE it enacted by the senate and house of representatives, in general court convened, That after the passing of this act, if any person shall use any spear, seine or stab for the purpose of catching or destroying any fish in said pond, such person so offending, shall, for every fish so caught or destroyed, forfeit and pay the sum of two dollars, to be recovered with cost of suit in an action of debt by any person who shall sue for the same before any justice of the peace within the county of Rockingham; one half of the said sum of two dollars so recovered as aforesaid, to be appropriated by the person who shall sue for the same, and the other half to be and remain for the use of the said county of Rockingham.

Approved June 17, 1811.

Passed June
20, 1811.

AN ACT to facilitate the passing of Fish in Piscataquog river.

WHEREAS there are several mill dams across the river Piscataquog which prevent the passing of fish in said river; Therefore,

Passage-ways
to be kept
open,

at certain
seasons.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That all proprietors of mill-seats on the said river Piscataquog, between the confluence of the north and south branch thereof, and its entrance into the river Merrimac, shall keep open a passage-way, of one foot square, in some suitable part of their mill-dams, to be adjudged by the selectmen of the respective towns where said mill-seats may be, from the first day of May to the last day of June, and from the first day of September to the last day of October annually.*

Penalty for
neglect and
how appropriated.

SECT. 2. *And be it further enacted, That all proprietors of mill seats who shall refuse or neglect to make and keep open said passage-way as aforesaid, during the time aforesaid, shall be liable on complaint and conviction thereof before any justice of the peace, to pay for each offence so committed, a fine, for the use of the poor of the town where*

the offence may be committed, not exceeding twelve dollars, nor less than six dollars, at the discretion of the court before which the same may be determined, and two dollars a day, for each day the same may be neglected, and costs of prosecution, to any person who may sue for the same. *When to be in force.* *Provided however,* This act shall not be in force until the first day of April, in the year of our Lord one thousand eight hundred and twelve. *Approved June 20, 1811.*

AN ACT to facilitate the passing of Fish in Babboosook brook. *Passed June 21, 1811.*

WHEREAS there are several mill-dams across Babboosook brook, which prevent the passing of fish in said brook ;

Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That all proprietors of mill-seats on said Babboosook brook, between Babboosook pond and the river Merrimac, shall keep open a passage-way of one foot square in some suitable place in their mill-dams, to be adjudged by the selectmen of the respective towns where said mill-seats may be, from the first day of May to the last day of June, and from the first day of September to the last day of October annually. *Passage ways in mill dams to be kept open at certain seasons.*

SECT. 2. *And be it further enacted,* That all proprietors of mill-seats who shall refuse or neglect to make and keep open said passage-way as aforesaid during the time aforesaid, shall be liable on complaint and conviction thereof before any justice of the peace, to pay for each offence so committed, a fine, for the use of the poor of the town where the offence may be committed, of ten dollars, and two dollars a day for each day the same may be neglected, and cost of prosecution to any person who may sue for the same. *Penalty for neglect.* *When to be in force.* *Provided,* That this act shall not be in force until the first day of April, in the year of our Lord one thousand eight hundred and twelve. *Approved June 21, 1811.*

AN ACT to prevent the destruction of Fish in Turkey ponds, so called, in Concord, in the County of Rockingham. *Passed June 22, 1814.*

BE it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, if any person or persons shall use any spear, seine or stab, for the purpose of catching or destroying any fish in said ponds, such person or persons so offending, shall, for every fish so caught, or destroyed, forfeit and pay the sum of two dollars ; to be recovered, with cost, by action of debt, by any person who shall sue for the same, before *Not to use a spear, seine, or stab.* *Penalty.*

to be recovered and appropriated.

any justice of the peace in the county of Rockingham; one half of the said sum of two dollars, so recovered, as aforesaid, to be appropriated by the person who shall sue for the same, and the other half to be and remain for the use of the said county of Rockingham.

Approved June 22, 1814.

Passed June 24, 1814.

AN ACT to prevent the destruction of Fish in Winnipissiogee lake, Squam ponds, and the bays on the Winnipissiogee river.

Not to use any spear, seine, or stab.

BE it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, if any person or persons shall use any spear, seine or stab, for the purpose of catching or destroying a certain species of fish, called salmon-trout, in said lake, ponds, or bays, between the first day of October and the first day of December, annually; such person or persons, so offending, shall for every fish so caught, or destroyed, forfeit and pay the sum of two dollars, to be recovered, with cost, by action of debt by any person who shall sue for the same before any justice of the peace in the county of Strafford, or before any justice of the peace in the county of Grafton: and the sum so recovered, as aforesaid, shall be for the use of the person who shall sue for the same.

Approved June 24, 1814.

Passed June 15, 1799.

AN ACT empowering the inhabitants of the town of Portsmouth, to appoint Health Officers, and for preventing nuisances in said town.

Health officers

to be sworn.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the inhabitants of the town of Portsmouth, qualified to vote for town officers, shall at the annual town meetings held for the choice of town officers, or at any other town meeting duly warned and held for that purpose, choose and appoint by ballot three suitable and proper persons, to be health officers in said town for the year then next ensuing, who shall be sworn to the faithful execution of their duty, and shall continue in office until the next annual town meeting for the choice of town officers, and until others shall be chosen and sworn in their room; and in case of the neglect and refusal of any person so chosen to take such oath, and in case of the death or resignation of any health officer, the selectmen for said town of Portsmouth, or a major part of them, may by a writing under their hands appoint some suitable person to fill such vacancy, and such person so appointed and sworn as aforesaid shall have the same power and authority in said office as he would have if chosen by the inhabitants at a legal town meeting.

SECT. 2. *And be it further enacted,* That it shall be the ^{Duty} duty of said health officers, and each of them to search for, and examine into all nuisances or other causes injurious, or dangerous to the health of the inhabitants of said town, created or occasioned by stagnant waters, drains, common sewers, slaughter-houses, tan-yards, docks, necessities, or any putrid substances, or by any other causes whatever: and whenever the said health officers, or any two of them, shall in their opinion have knowledge of, or reasonable cause of suspicion that any nuisance or putrid matter, or any substance, or thing, injurious to the health of said inhabitants, is lodged in any dwelling-house, ware-house, store, shop, cellar, out-house, or enclosure in said town, or in any ship, or vessel in the harbour of said town, they shall forthwith make report on oath or affirmation before some justice of the peace, or other magistrate of such knowledge, or reasonable cause of suspicion thereof, who shall grant, and hereby is authorized to grant to such health officers a warrant to search and examine the same, and the said health officers, or any two of them, shall for that purpose and by virtue of said warrant, have full power and authority, forcibly to enter in the day time, and search and examine such dwelling house, ware-house, store, shop, cellar, out-house, enclosure, ship or vessel, as the case may be, where such reasonable cause of suspicion exists—and the said health officers and each of them when opposed or resisted in making such search, shall have the same power and authority to require and command assistance, as a sheriff by law hath, when opposed or resisted in the execution of his duty.

SECT. 3. *And be it further enacted,* That whenever any nuisance, putrid substance or any matter or thing whatever shall be found in any dwelling-house, ware-house, store, shop, cellar, vault, out-house, enclosure, or dock, or on any wharf in said town, or in any vessel or ship in said port, or harbour, which in the opinion of said health officers, or any two of them who have examined the same, is or will become injurious or dangerous to the health of said inhabitants, said health officers or any two of them, shall immediately by a writing under their hands order the owner or owners, or the occupier or occupiers of such dwelling-house, ware-house, store, shop, cellar, vault, out-house, enclosure, dock, wharf, ship or vessel, to remove or destroy such nuisance or putrid substance, or matter, within a certain time, which shall be limited and specified in such order, and the reading such order in the hearing of such person or persons to whom the same is directed, or leaving a copy thereof at his usual place of abode, shall be sufficient notice of such order, and in case the person or persons to whom such order was directed shall neglect to obey and comply with such order, at or before the expiration of the time so specified and limited in such order, it shall be the duty of said health officers, or any two of

Nuisances to
be removed

Health officers may enter houses, &c.

them, forthwith to cause such nuisance, putrid substance, or matter to be removed—to do which they may employ such number of assistants and labourers as shall be necessary—and the said health officers, or any two of them, shall have the same power and authority by virtue of the warrant aforesaid, granted as aforesaid, on the oath or affirmation of said health officers, or any two of them, forcibly to enter into all dwelling-houses, ware-houses, stores, shops, cellars, out-houses, enclosures, ships, or vessels for the purpose of removing such nuisance, putrid substance or matter they have to enter to make search and examination as is herein before provided; and if any person or persons shall knowingly and wilfully resist, molest, impede or obstruct said health officers, or any one of them, or any person by them, or any one of them employed, in making or attempting to make such search and examination, or in removing such nuisance, putrid substance or matter, such person or persons so offending shall, on conviction thereof before the superior court, be punished by imprisonment not exceeding twelve months, or by a fine not exceeding five hundred dollars: *Provided however*, That no sheriff, deputy sheriff, marshal, deputy marshal, or constable, shall under colour, or by means of any entry made for any of the purposes aforesaid, enter any dwelling-house to serve any civil process by arresting the body, or attaching the goods or chattels of any person or persons unless such service would legally have been made without such entry of said health officers; and all such services so made under colour of such entry, shall have no more force or validity than the same would have, if made without such entry; and the officer making the same shall be subject to the same punishment, and be answerable in the same manner as he would be, if he had made such service without such entry of said health officers.

Nuisances in vacant or unoccupied houses, &c.

SECT. 4. *And be it further enacted*, That whenever any such nuisance, putrid substance or matter as aforesaid, shall be found in any dwelling house, ware-house, store, shop, cellar, vault, out-house, enclosure, dock, wharf, ship or vessel, which shall be vacant and unoccupied, or when the occupier or occupiers thereof are not in the opinion of the said health officers, or such one of them who examine the same, of sufficient ability to remove or destroy such nuisance or putrid substance or matter, and when the owner or owners thereof shall be unknown to said health officers, or shall not reside within the said town of Portsmouth, the said health officers, or any two of them, may without making any order for the removal or destroying of the same as is above provided, immediately cause the same to be removed in the same manner that he or they are authorized to do in case of the neglect of the owners or occupiers after such order has been made; and in all cases when any such nuisance, putrid substance or matter shall be removed by said health officers,

or by persons by them employed to do the same, the amount of the expense of removing the same may be recovered against the occupier or occupiers, or against the owner or owners of such dwelling-house, ware-house, store, shop, cellar, vault, out-house, enclosure, dock, wharf, ship or vessel, where the same shall be found, in an action of the case for money paid, laid out and expended, which action may be commenced and prosecuted in the name and for the use of the town of Portsmouth, by the said health officers, or any two of them, before any court or justice of the peace proper to try the same, and in case of a recovery in any such action in favour of said town, such court or justice shall allow and tax costs.

SECT. 5. *And be it further enacted*, That if any person or persons shall throw, place or leave, or cause to be thrown, placed or left, any fish, garbage, putrid animal or vegetable substance, or any matter of an offensive nature, which will pollute the air and become injurious to the health of said inhabitants, in any highway, street, lane, or open alley, or on any common, or into any dock, or on any wharf, or in any shoal water in said town, where the tide will not remove and carry the same away, such person or persons shall for each offence forfeit and pay a sum not exceeding ten dollars, nor less than one, to the said town of Portsmouth, which may be prosecuted and recovered by said health officers, or any two of them, in the name of said town, in any court proper to try the same—and the health officers shall remove or cause to be removed all nuisances, putrid substances, or matter injurious or dangerous to the health of said inhabitants which shall be found in any highway, street, lane or alley in said town, or on any wharf, or in any dock in said town.

Nuisances in highway or streets, &c

SECT. 6. *And be it further enacted*, That whenever any ship or vessel shall arrive at the port or harbour of Portsmouth, after the fifteenth day of May, and before the first day of November in any year, from any country, place or port, subject to the yellow fever, or any malignant pestilential contagious disorder, or where the yellow fever, or any malignant contagious disorder is usually or often prevalent, it shall be the duty of said health officers or any one of them immediately to examine into the state and circumstances of such ship or vessel, and if it shall be the opinion of said health officers, or any two of them, that such ship or vessel, her cargo, or any person on board of the same is infected with any such malignant contagious disorder, and that her coming to, or remaining at, or near any of the wharves, or compact parts of said town, would be injurious or dangerous to the health of said inhabitants, it shall be the duty of said health officers, or some two of them by a writing under their hands, to order and direct the owner or owners, master or commanding officer of such ship or vessel

Ships or vessels may be removed.

to remove such ship or vessel to some place of safety not exceeding three miles distance from said town, in such order to be specified, there to remain to cleanse and purify such ship or vessel and her cargo, for such a term and space of time not exceeding thirty days, as shall be limited and specified in such order—and in case the owner or owners, master or commanding officer of any such ship or vessel, shall disobey or neglect to perform and comply with such order, or shall move or bring such ship or vessel, or any part of her cargo, or any article on board such ship or vessel, or permit, or suffer the same to be moved or brought on shore before the expiration of the time limited and specified in such order, without having previously obtained permission in writing to do the same from two of said health officers, or from a majority of the selectmen of said town, such owner or owners, master or commanding officers so offending, shall forfeit and pay to said town, a sum not exceeding two thousand dollars, which may be recovered with costs in an action in the name of said town, to be prosecuted by said health officers, in any court proper to try the same: and if the owner or owners, master or commanding officer of any such ship or vessel shall neglect to remove the same agreeable to such order, or having removed the same shall again before the expiration of the time limited and specified in such order, bring such ship or vessel, or cause the same to be brought to or near any wharf in said town, or near any compact parts of said town, without having previously obtained such permission therefor, as is herein above provided, the said health officers, or some two of them, taking with them sufficient assistance, shall remove such ship or vessel to the place specified in said order, there* to remain at the risk of the owner or owners until the expiration of the time in such order limited and specified—and the expense of removing such ship or vessel and keeping the same, may be recovered against such owner or owners, master or commanding officer, with double costs, in the same way and manner as is in this act provided for recovering the expense of removing or destroying nuisances and putrid substance or matter.

Expenses to
be paid by
the town.

SECT. 7. *And be it further enacted*, That all the expenses created or incurred by said health officers in the execution of their duty shall be borne and paid by the said town of Portsmouth, for which the said health officers from time to time may draw orders on the selectmen of said town, and the said health officers shall be entitled to receive a proper compensation from said town; and if the said health officers or any one of them, or any person or persons by them employed shall be sued or prosecuted for any matter or thing by him or them done in pursuance and under the authority of this act, he or they may plead the general issue, and give this act and the special matter of justification in evidence, which shall have the

* In the original *their*.

same force and effect as if the same were specially set forth and pleaded.

SECT. 8. *And be it further enacted, That from and after the passing this act, that the health officers appointed by said town of Portsmouth at their last annual meeting, be, and hereby are empowered and directed to execute and perform the duty required by this act, until the next annual meeting,—and in case of the death or resignation of any one or more of them, that the selectmen shall have authority to appoint others in their stead, as set forth in the first section of this act.* *Approved June 15, 1799.*

Health officers already appointed to do duty, &c

AN ACT in addition to an act, entitled, “An act empowering the inhabitants of the town of Portsmouth to appoint Health Officers, and for preventing nuisances in said town.” *Passed June 10, 1803.*

WHEREAS the provisions of said act are, on experience, found not fully to answer the salutary purposes contemplated thereby ; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That the health officers now in office, and those who may be hereafter chosen, according to the directions of the act aforesaid, shall have power, and they are hereby authorized and empowered, from time to time, and as in their judgment the health and safety of the said town and of the people may require, to make such rules and regulations, to have effect within the limits of said town and port, as to them shall appear necessary for those purposes ; also for removing and preventing nuisances ; which rules, orders and regulations, being approved by two or three justices of the peace, one of whom being of the quorum, shall be binding and strictly observed within the town and port of Portsmouth. And if any person or persons shall disobey or violate the rules, orders, and regulations, of said health officers, so made and approved, at any time after three days from the publication of the same in two of the newspapers printed in said town, such person or persons shall forfeit and pay the sum of ten dollars, to be recovered by the said health officers before a justice of the peace, not being a party, for the use of said town.*

Health officers may make rules, &c.

And the said health officers shall have power, and power is hereby given them, to make orders and regulations, from time to time, respecting quarantine, in what cases it shall be performed by vessels arriving in said port, naming the ports or places from which all vessels arriving ought to be subject to quarantine, and by other orders to take off this subjection or restriction, when in their opinion the safety of the town and people will admit of it. And all their orders and regulations respecting quarantine made, approved, and

Quarantine

published as aforesaid, shall be of force ; and they are hereby required and empowered, to cause such vessels and all others having infection or contagious sickness on board, or justly suspected of endangering the health of the town, to perform quarantine, under such restrictions and regulations as they may judge expedient. And any owner, master, supercargo, officer, seamen, consignee, or other person concerned, who shall neglect or refuse to obey the restrictions, directions, or qualifications of said health officers, respecting said quarantine, shall, on conviction thereof before the superior court, be fined a sum not exceeding five hundred dollars, or be imprisoned not exceeding three months, or both, at the discretion of said court.

Duty of pilots

SECT. 2. *And be it further enacted,* That whenever the said health officers shall order, in manner aforesaid, all vessels arriving from a particular port, or from certain ports, to perform quarantine, they give notice of such order to the pilots of the said port of Portsmouth ; and it shall be the duty of the said pilots, to make known the said order to the captains or masters of all vessels which they shall board, or have opportunity to communicate it unto. And if any pilot shall pilot any vessel up to the town, to any wharf thereof, said vessel being by such order subject to quarantine, he shall forfeit his branch, and be moreover fined not exceeding the sum of one hundred dollars, at the discretion of said court, on a prosecution and conviction before said court. And it shall be the duty of the said health officers, to make known such orders by them made as aforesaid, to the commanding officer of the fort or garrison at New-Castle, desiring his assistance and co-operation in stopping all vessels subject by such order to perform quarantine, and not permitting them to pass quarantine road, until further order be taken respecting them.

Duty of masters of vessels.

SECT. 3. *And be it further enacted,* That any master or commander of any vessel arriving, subject to quarantine by such order, as aforesaid, who* after receiving notice in any manner, of his vessel being so subject, shall bring up the same to any part of the town of Portsmouth, or pass up the river, or who shall falsely and fraudulently attempt to elude the directions of the health officers, by false and unfounded declarations, as to the port or place from whence he came, or who shall land, or suffer to be landed from his vessel, any person, goods, apparel, bedding, or merchandize whatsoever, without the permission of the said health officers ; every such master or commander shall, upon conviction thereof as aforesaid, forfeit and pay a sum not exceeding five hundred dollars, or suffer imprisonment for a time not exceeding three months, or both, at the discretion of the said superior court.

Penalty for fraud, or landing contrary to law.

SECT. 4. *And be it further enacted,* That when the said health officers shall think it necessary that any vessel

* Who omitted in the original.

shall perform quarantine, and be cleansed and purified, they shall direct the master or commander of such vessel to proceed with her, and anchor at or near some convenient place by them appointed, and specified in their order, not exceeding three miles from Portsmouth, there to be purified and cleansed, in such manner as the said health officers shall direct and order. And all expenses of such purification shall be defrayed and paid by the master, commander, owner or consignee of such vessel; and they shall either of them, and each owner severally, be answerable therefor; and the expenses shall be recovered by action of the case, in the name of the said health officers, to and for the use of the said town of Portsmouth. And each and every master, commander, owner, or consignee of every such vessel, who shall neglect or refuse to comply with such directions for purification or cleansing, shall, on conviction thereof before the said superior court, be fined not exceeding five hundred dollars, or suffer imprisonment for a term not exceeding three months, or both, at the discretion of the court.

Directions to
masters of
vessels

SECT. 5. *And be it further enacted,* That any diseased mariner or other person, sent on shore at the place appointed by the said health officers for the reception and cleansing of the sick, shall be there kept, maintained, provided for, and cleansed, at his or their own expense, or that of his or their parents or masters, if able, otherwise at the charge of the town to which he or they belong. And in case such person or persons have no legal settlement in any town or place within this state, then at the charge of the state.

Mariners how
to be provid-
ed for.

SECT. 6. *And be it further enacted,* That every person, mariner, or other person, who shall presume to come on shore from any vessel infected, or justly suspected to be so, or subject to or ordered for quarantine, or performing it, or shall leave the place appointed for the sick, or for purification, being placed there by order as aforesaid, and not having obtained permission from the health officers; every person, so offending, shall, on conviction before the court of common pleas, or the superior court, forfeit and pay the sum of one hundred dollars, or suffer three months imprisonment, at the discretion of the court before which the conviction shall be.

Forfeiture for
disobedience
of orders.

SECT. 7. *And be it further enacted,* That when any vessel shall be ordered for quarantine and purification, a red flag of six feet in length, at least shall be ordered to be hoisted at the head of the main mast, and shall be constantly kept up in the day time, during the whole term of the quarantine, and until said vessel shall be entirely cleansed. And a like flag shall be hoisted on a flag-staff to be erected for that purpose, and kept up constantly in the day time, at the place appointed for the reception, cure, and cleansing of the sick, during the time of their remaining there. And if any person shall without direction or leave of the health officers, go on board any vessel, ordered for or performing quaran-

Signal of
quarantine.
&c

* *He* is omitted in the original.

time, or go within the limits that may be appointed by said officers, circumscribing infected persons, and substances on shore, he* shall be considered as contaminated with infection, and held to undergo purification in the same manner, and under the same regulations, restrictions, and penalties, as those are subject to who are performing quarantine; and shall there remain, at his own expense, until discharged by order of the health officers. And the persons employed by them there, may, and are hereby empowered forcibly to detain him, until regularly discharged as aforesaid.

SECT. 8. *And be it further enacted*, That the powers before given to the said health officers, may, and shall, be exercised by them, or any two of them.

Approved June 10, 1803.

Passed June 18, 1807

AN ACT in addition to an act, entitled, "An act empowering the town of Portsmouth to appoint Health Officers, and for preventing nuisances in said town.

WHEREAS the provisions of said act are on experience found not fully to answer the salutary purposes contemplated thereby; Therefore,

Officer commanding at the fort, &c.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened*, That whenever the health officers of the said town shall have made known their orders, made according to the directions of said act respecting quarantine, to the commanding officer of the fort at New-Castle, and desired his aid and co-operation in stopping all vessels subject to quarantine, and attempting to pass the quarantine road up to said town—if any vessel so subject shall attempt to pass after being hailed from the fort and forbidden to pass, it shall be lawful for the commanding officer of said fort for the time being, to fire a shot a-head of said vessel, and if she shall not then come to, but shall still endeavour to pass, then to fire a shot a-stern of said vessel, and if she still persists in attempting to pass up in manner aforesaid, then to fire upon and into said vessel until she shall bring to in submission to the regulations by law made and established for the health and safety of said town, and of the state.

May fire upon vessels.

Vessels attempting to pass, &c.

SECT. 2. *And be it further enacted*, That in case any master or officer commanding any vessel subject to quarantine, shall refuse to come to anchor and attempt to pass up the harbour, after being hailed and forbidden as aforesaid—thereby by his obstinacy obliging the commanding officer of said fort to fire one or more shots in manner aforesaid: every such master or officer commanding such vessel, shall forfeit, and pay to the commanding officer at the fort, the sum of five dollars for each charge so expended in each shot made as aforesaid, in order to bring such vessel to, and to compel the commander to submit to the laws; which expense shall be paid before said vessel leaves quarantine ground.

Penalty

Approved June 18, 1807.

AN ACT for the regulation of the Police in the town of Portsmouth. Passed June 18, 1807.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the police officers of the town of Portsmouth for the time being, who are or may be legally chosen and qualified, or any one or more of them be, and hereby are authorized and empowered to arrest any rogue, vagabond, lewd, idle, or disorderly person or persons, using any juggling or unlawful games or plays, common pipers, fiddlers or runaways, common drunkards, common night walkers, common railers or brawlers, all pilferers, all persons profane, wanton or lascivious in speech, conduct, or behaviour, or guilty of writing or painting on fences or buildings any thing obscene or improper, and any other person who shall in any way transgress against the rules of good order, and the person or persons so arrested shall be immediately taken or carried before some justice of the peace, provided the said arrest should be made at any hour between six o'clock in the morning and nine o'clock in the evening; but provided the said arrest should be made at any other hour, the police officer or officers shall have authority, and are hereby empowered to commit the person or persons so arrested to bridewell or the house of correction, where he or they shall remain until the following day, when he or they shall be taken before a justice in the same manner as though the arrest was made between the hours of six o'clock in the morning and nine o'clock in the evening.

Duty of police officers.

May commit to bridewell.

SECT. 2. *And be it further enacted,* That it shall be lawful for each and every police officer to take and command such assistance as may be needful to arrest and detain any person or persons as aforesaid, and to convey the same before a justice or to bridewell, as in this act is before provided; and if any person shall refuse to give aid and assistance to any police officer as aforesaid, such person so refusing shall upon conviction thereof before any justice of the peace be fined in a sum not exceeding ten dollars, nor less than one dollar, exclusive of costs; and the said justice shall commit the offender who refused so to give aid and assistance, until the fine be satisfied, or shall cause such fine, penalty and cost to be levied by distress, and sale of the offender's goods, returning the overplus, if any there be.

May command assistance.

SECT. 3. *And be it further enacted,* That the oath of any officer of the police shall be deemed full and sufficient evidence upon trial of any offence committed against the police of the said town of Portsmouth, unless in the judgment of the court or justice, the same shall be invalidated by other evidence that may be produced.

Oath of police officer sufficient evidence.

SECT. 4. *And be it further enacted,* That any justice of the peace may commit unto bridewell or the house of correction in Portsmouth, any person of the description mentioned in the first section of this act who may have com-

Justice of the peace may commit, &c.

Person com-
plained of
not entitled
to cost.

mitted an offence against the police of said town, and the said justice shall have the same power of decreeing punishment and to the same extent as is provided in any other case ; but if the said person, so complained of is acquitted upon trial, he shall not be entitled to costs against the police officer.

Approved June 18, 1807.

Passed Feb.
18, 1794.

AN ACT to prevent the keeping of large quantities of Gun-Powder in private houses in Portsmouth, and for appointing a keeper of the Magazine belonging to said town.

WHEREAS the keeping of large quantities of gun-powder in private houses in Portsmouth aforesaid, or in merchant ships, or vessels lying at the wharves in said town, would greatly endanger the lives and properties of the inhabitants thereof in case of fire ; which danger might be prevented, by obliging the owners of such powder, to deposit the same in the magazine provided by said town for that purpose ;

Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That if any person or persons, shall keep in any dwelling house, store or other building on land, within the limits of said Portsmouth, except the magazine aforesaid, more than ten pounds of gun-powder at any one time, which ten pounds shall be kept in a tin cannister, properly secured for that purpose, such person or persons shall forfeit the powder so kept, to the firewards of said Portsmouth, to be laid out by them in purchasing such utensils as they may judge proper for the extinguishing of fire ; and the said firewards are hereby directed and empowered to seize, and cause the same to be condemned in any court of record proper to hear and try the same, to be disposed of for the purpose aforesaid. And the offender shall also forfeit and pay a fine for the use of the poor of said Portsmouth, equal to the value of the powder so kept in any store, dwelling house or building ; which fine shall be sued for and recovered by the overseers of the poor of said Portsmouth for the use of said poor, in any court of law proper to try the same.*

Gun-powder
not to be kept
in dwelling-
houses, &c

Fine

Gun-powder
to be deposi-
ted in maga-
zine.

SECT. 2. *And be it further enacted, by the authority aforesaid, That every master of any merchant ship or vessel, bringing gunpowder into said Portsmouth, shall, within the space of forty-eight hours after his arrival, deposit in said magazine, all the gun-powder by him so brought as aforesaid ; and if he shall neglect so to do, he shall pay a fine of thirty pounds, for the use of the poor of said Portsmouth, to be recovered by said overseers in manner aforesaid.*

Keeper of ma-
gazine to be
chosen.

SECT. 3. *And be it further enacted, That there shall be chosen annually, or oftener if necessity require, by the inhabitants of said Portsmouth, being legal voters, a keeper of said magazine, whose duty it shall be to receive into and*

deliver out of said magazine, all the powder so deposited, and to account therefor, who shall have a right to demand and receive for his time and trouble in attending on said business, at the rate of one shilling per hundred weight, for all quantities of powder above ten pounds, that he shall so receive into, and deliver out of said magazine ; and for all quantities under ten pounds, at the rate of a half penny per pound.

SECT. 4. *And be it further enacted,* That no person shall transport or carry through the compact part of the town of Portsmouth, more than ten pounds of gun-powder at any time without the same is in a close carriage, or is sufficiently covered, on penalty of forfeiting the sum of one dollar for each offence, to be recovered and applied in the same manner as is herein before directed.

SECT. 5. *And be it further enacted,* That the act to prevent the keeping large quantities of gun-powder in private houses in Portsmouth, passed the twenty-eighth day of February, one thousand seven hundred and eighty-six, be, and hereby is repealed. *Approved February 18, 1794.*

AN ACT to prevent obstructions and impediments to Navigation in the river Piscataqua, and harbour of Portsmouth. Passed June 16, 1792.

WHEREAS masters and owners of vessels, or persons belonging to them, boatmen and others, have frequently thrown out ballast and other annoyances from vessels and boats, as well as from the shore or bank, into said river and harbour tending to fill up or lessen the channel, and obstruct the passage near the wharves, to the detriment and obstruction of navigation : For remedy whereof,

Be it enacted by the senate and house of representatives, in general court convened, That from and after the first day of August next, no refuse whatever shall be cast or thrown into said harbour or said river within the limits hereafter mentioned, excepting such only as being naturally carried off by the current, does not tend to form or promote the obstructions aforesaid.

And if any person shall thereafter unlade, cast or throw out of any ship, vessel or boat of any kind, or from the shore or bank, or from any wharf, any ballast, rubbish, gravel, earth, stones, dirt, ashes, or filth into said harbour, or into said river, within the following limits, viz. From the light-house at the entrance of said harbour, up said river to boiling rock, so called, or shall be aiding or assisting therein, every such person shall, for every such offence, forfeit and pay a sum not less than twenty, nor more than forty shillings, to be recovered by action, complaint or information before any justice of the* peace, or court of record proper to try the same, the one half of which sum shall be to the complainant, and the other half to the prosecutor.

* The is omitted in the original.

And the town of Portsmouth shall annually at the meeting for the choice of town officers, or at any other legal town meeting, choose a discreet person to oversee and superintend said harbour and said river within the limits aforesaid, whose peculiar business and duty it shall be, to see that this act be observed, and to prosecute any breaches thereof, which officer shall be called the harbour-master.

Passed June 16, 1792.

Passed June
22, 1785.

AN ACT for regulating Pilotage in the port of Piscataqua.

WHEREAS frequent and heavy losses have been sustained and navigation greatly injured, for the want of a well regulated pilotage in the harbour aforesaid :

President to
appoint a pi-
lot.

See act of
June 18,
1805, p.464.

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the president, with advice of council, be, and hereby is empowered and requested, as soon as may be, to appoint a suitable person as a pilot for the harbour aforesaid ; and to give the person so appointed, a branch or warrant for the due execution of his office, with power of substitution, in certain cases, to be therein prescribed ; and such deputies as the said branch pilot shall depute, shall be by him reported to the president for his approbation.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That the pilot and his deputies, appointed as aforesaid, shall, before his entering upon the business of his office, take the following oath or affirmation before some justice of the peace :

Pilot's oath. You A. B. do swear, or affirm (as the case may be) that you will, from time to time, truly and faithfully perform the duties of a pilot, for the harbour of Piscataqua, according to your best skill and judgment, agreeably to the law of this state.

So help you GOD.

Bonds.

And the said branch pilot, and his deputies, shall enter into bonds, with sufficient sureties, to the treasurer of this state, in the sum of one thousand pounds each, for the due performance of the trust reposed in them. And the branch pilot, being commissioned and qualified as aforesaid, is hereby empowered and directed, by himself or his deputy, to take charge of any vessel or vessels, drawing nine feet of water, or upwards (coasting and fishing vessels excepted) bound into, or out of the port aforesaid ; and shall pilot such vessel or vessels into and out of the port aforesaid, first shewing to the master or masters thereof, his branch, or warrant, and acquainting him or them of his fees.

Limits.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That the cruising ground of the pilot, or his deputy, for the port aforesaid, be, and hereby is limited in manner following, viz. beginning from the ragged neck, so called in Rye, to southwest of the harbour aforesaid ; from

thence, easterly to the middle ground, between the islands of the shoals, and the harbour's mouth; and as far as the easternmost of the sisters, so called: and the branch pilot, and each of his deputies, shall always keep a suitable boat, in good repair.

SECT. 4. *And be it further enacted, by the authority aforesaid,* That the president, with advice of council, be, and hereby is empowered and requested to determine and fix the fees of pilotage, according as the circumstances of peace or war may require, and to specify the same in his warrant; and also to transmit the same to the naval officer for the port aforesaid, and to be by him hung up in his office, for publick inspection.

President with advice of council to fix the fees.

SECT. 5. *Provided, nevertheless, and be it enacted, by the authority aforesaid,* That any master or owner of a vessel, who chooses to hazard the pilotage of his own vessel out of the harbour aforesaid, shall be at liberty so to do: *Provided also,* that in case the said pilot, or either of his deputies shall go on board any vessel at sea, and which was bound into this harbour, that then the said pilot, or his deputy shall be entitled to one half the fees specified in his warrant, in case the master or owner declines to employ him, or them; and, on refusal of payment may sue for and recover the same.

Master or owner may pilot his own vessel.

SECT. 6. *Provided also, and be it further enacted, by the authority aforesaid,* That if any vessel shall be within the light-house of the harbour aforesaid, before any pilot shall go on board, and the master of such vessel shall then decline taking a pilot, he shall be exempt from the fees of pilotage in the said port.

Proviso.

SECT. 7. *And be it further enacted, by the authority aforesaid,* That if any vessel, while under the charge and direction of the branch or warrant pilot, or his deputy, shall be lost, cast away, or run aground, through the unskilfulness or neglect of such branch or warrant pilot, or his deputy, then, and in that case, such branch or warrant pilot, or his deputy or deputies shall be liable to pay the just value of the vessel and her cargo, or any proportionable damage which may be sustained thereby; to be sued for and recovered by the owner or owners, insurer or insurers thereof, in any court proper to try the same.

Pilot answerable for damage, &c

And to the intent that a suitable check may be had upon the pilot aforesaid, and that he may be excited to due vigilance in the discharge of the duties assigned him:

SECT. 8. *Be it enacted by the authority aforesaid,* That the president and council, be, and they are hereby empowered to hear and determine all complaints exhibited against the said pilot or his deputies, or either of them, for mal-conduct in the premises; and at their discretion to put out or suspend any or either of them, and to appoint others in their room, laying the reasons therefor before the general court, at the next session after such suspension or removal.

Passed June 22, 1785.

Passed Jan.
25, 1790.

WHEREAS it is found that one Branch pilot cannot perform all the duties of that office : 'Therefore it is

Resolved by the senate and house of representatives, in general court convened, That the president of this state, with advice of council, may appoint, as often as occasion may require, three such pilots, who shall, prior to their exercising said office, severally give bond, and take the oath for the faithful discharge of the duties of that office as the law directs.

Passed January 26, 1790.



Passed June
18, 1805.

AN ACT in addition to an act for regulating Pilotage in the port of Piscataqua.

Governor empowered to appoint pilots, with advice of council.

BE it enacted by the senate and house of representatives, in general court convened, That the governor, with advice of council, be, and hereby is authorized and empowered to appoint one or more suitable person or persons as a pilot or pilots for the harbour aforesaid, and give to each pilot thus appointed a branch or warrant for the due execution of his office, with power of substitution in certain cases to be therein prescribed, and such deputies as the said branch pilot shall depute, shall be by the respective pilots, reported to the governor for his approbation, any thing in the former act to the contrary notwithstanding.

Approved June 18, 1805.



Passed Dec.
17, 1805.

Duty of clerks of senate and H. of Rep.

RESOLVED, That forever hereafter it shall be the duty of the clerk of the senate and the clerk of the house of representatives, at the rising of the legislature, to deposit from time to time all papers and petitions, which are not recorded in the secretary's office, appertaining to the unfinished business of the legislature, in the hands of the secretary ; and that it shall be the duty of the said secretary to take care of the same, and deliver over all such papers, so deposited in his hands, to the clerks aforesaid early on the first day of the session of the legislature, from session to session next after his receiving such papers.

Approved December 17, 1805.



Passed June
20, 1811.

Duty of secretary.

RESOLVED, That whenever a new edition of the statutes of this state shall be published, it shall be the duty of the secretary to forward three sets thereof to each state in the union ; and that he forward annually to each state three sets of all such statutes as his excellency the governor for the time being may direct, provided such state shall consent to an annual exchange ; and that the secretary be directed to correspond with the several states, through the medium of their respective secretaries for the above purposes.

Approved June 20, 1811.

APPENDIX.



DECLARATION OF INDEPENDENCE.



IN CONGRESS, JULY 4, 1776.



WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self evident ; that all men are created equal ; that they are endowed, by their Creator, with certain unalienable rights ; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed ; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established, should not be changed for light and transient causes ; and accordingly, all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies ; and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great-Britain, is a history of repeated inju-

ries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the publick good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained ; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature ; a right inestimable to them, and formidable to tyrants only. He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their publick records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected ; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise ; the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states ; for that purpose obstructing the laws for naturalization of foreigners ; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependant on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harrass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws ; giving his assent to their acts of pretended legislation :

For quartering large bodies of armed troops among us :

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states :

For cutting off our trade with all parts of the world :

For imposing taxes on us without our consent :

For depriving us, in many cases, of the benefits of trial by jury :

For transporting us beyond seas to be tried for pretended offences :

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions, we have petitioned for redress in the most humble terms : Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, Free and Independent States ; that they are absolved from all allegiance to the British Crown, and that all political connexion between them and the state of Great-Britain, is, and ought to be, totally dissolved ; and that as Free and Independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honour.

JOHN HANCOCK.

<i>New-Hampshire.</i>	{ Josiah Bartlett, William Whipple, Mathew Thornton.
<i>Massachusetts-Bay.</i>	{ Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.
<i>Rhode-Island, &c.</i>	{ Stephen Hopkins, William Ellery.
<i>Connecticut.</i>	{ Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott.
<i>New-York.</i>	{ William Floyd, Philip Livingston, Francis Lewis, Lewis Morris.
<i>New-Jersey.</i>	{ Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.
<i>Pennsylvania.</i>	{ Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross.
<i>Delaware.</i>	{ Cæsar Rodney, George Read, Thomas M'Kean.*
<i>Maryland.</i>	{ Samuel Chase, William Paca, Thomas Stone, Charles Carroll, of Carrollton.
<i>Virginia.</i>	{ George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison Thomas Nelson, jun. Francis Lightfoot Lee, Carter Braxton.
<i>North-Carolina.</i>	{ William Hooper, Joseph Hewes, John Penn.
<i>South-Carolina.</i>	{ Edward Rutledge, Thomas Heyward, jun. Thomas Lynch, jun. Arthur Middleton.
<i>Georgia.</i>	{ Button Gwinnett, Lyman Hall, George Walton.

* Thomas M'Kean's name is not to be found in copy printed in journals of congress.

AN ACT for the re-establishing the general system of laws heretofore in force in this state. Passed April 9, 1777.

WHEREAS doubts have arisen whether the several acts and laws in force in this state, before the assumption of the present form of government, were not thereby, or by the subsequent declaration of independence, vacated, abrogated and disannulled: For removal whereof:

Be it enacted by the council and house of representatives, in general court convened, and by the authority of the same it is hereby enacted, That all the acts and laws in force in this state (at the time the present form of government was assumed*) with every article, direction and power in the same contained, so far as they are not repugnant to, and incompatible with the present form of government in this state, and its independence on Great-Britain, or are not repealed and disannulled, or altered by any act or law made and passed by the council and house of representatives of this state, since the said assuming of government, be revived, re-enacted, directed and ordered to abide and remain in full force, and accordingly to be exercised, practised and put in execution, and that all the fines and forfeitures thereby appropriated to the king's use, shall be applied to the use of the county wherein the same shall be imposed and become due.

Passed April 9, 1777.

* 5th of January, 1776.

AN ACT for recording Grants, Locations or Charters of lands in this state, granted by the late governors thereof, Benning Wentworth, Esq. and John Wentworth, Esq. Passed March 4, 1780.

WHEREAS the records of all grants, locations and charters of lands, granted by Benning Wentworth, Esq. or John Wentworth, Esq. late governors of this state, have been carried away therefrom; and it appearing very probable that great difficulties may arise for want of an authentic record of such grants, &c.: Therefore,

SECT. 1. *Be it enacted by the council and house of representatives, in general court assembled, and it is hereby enacted,* That the grantecs, owners, or possessors of all such grants, locations, or charters of lands in this state, under the hand and seal of the said Benning Wentworth, or John Wentworth, as governors aforesaid, having been duly authenticated in the usual manner, and dated before the nineteenth day of April, A. D. 1775, shall be brought into the secretary's office of this state, and there recorded.

Grants, locations, and charters to be recorded.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That no grant, location or charter of any lands in this state, made and executed by either of the governors a-

No grants, &c. to be esteemed good unless recorded.

foresaid, shall be taken, used, or esteemed good in law, to hold any such lands, unless the grant, location, or charter of such land be recorded as aforesaid, or filed in the secretary's office, in order to be recorded, within twelve months from this time.

The secretary
to record.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That the secretary of this state, for the time being, shall fairly enter, and record at full length, all grants, locations and charters of lands in this state, granted as aforesaid, together with the plans or draughts of such lands, thereto annexed, which shall be brought him to record. And on receipt thereof, into his office, shall note thereupon the day, month and year when he received the same, and the record shall bear the same date. For which, the secretary shall be paid by the person, or persons bringing the same, an adequate reward for his labour, and no more.

*Passed March 4, 1780.**

* By an additional act passed 29 March, 1781, a further time of one year from the passing the additional act, was allowed for the recording of grants, locations and charters.

By act of June 21, 1782, the further term of nine months from the passing of the act was allowed to those persons holding lands under charters granted by the late governors for recording the same—and by act of 8 Nov 1783, the term of 12 months from the passing of the act was allowed for the aforesaid purpose.

Passed Feb.
18, 1791.

AN ACT suspending the operation of sundry acts therein enumerated, until a certain time therein mentioned.

WHEREAS the following acts have passed the general court the present session, namely :

An act for establishing courts of law for the administration of justice within this state, and designating their powers, and regulating their proceedings in certain cases.

An act regulating process and trials in civil causes.

An act prescribing the forms of writs in civil causes.

An act for the punishment of certain crimes.

An act for the punishment of certain crimes not capital.

An act for the punishment of lewdness, adultery and polygamy.

An act regulating marriages, and for the registering of marriages, births and burials.

An act to prevent incestuous marriages, and to regulate divorces.

An act for the punishment of profane cursing and swearing.

An act defining the duty and regulating the office of sheriff.

An act regulating prisons.

An act for the ease and relief of persons imprisoned for debt.

An act for regulating towns, and the choice of town officers.

An act for establishing an equitable method of making taxes, and for ascertaining the powers of selectmen.

An act declaring the duty, and defining the power of collectors of taxes.

An act directing the proceedings against deficient collectors.

An act regulating fees.

An act for setting off debts, mutual demands and executions against each other.

An act subjecting lands and tenements to the payment of debts, and directing the mode of levying executions on real or personal estate.

An act declaring the mode of conveyance by deed.

An act prescribing the time and mode of redeeming real estate mortgaged or conveyed by deed of bargain and sale, with defeazance.

An act for the taking of affidavits out of court.

An act for the convenient and speedy assignment of dower.

An act directing the proceeding in cases of forcible entry or detainer of lands or tenements.

An act for laying out highways.

An act relative to common fields, and regulating fences.

An act regulating pounds.

An act relative to strays and lost goods.

An act allowing a certain premium for killing wolves.

An act to prevent frauds and perjuries.

An act punishing idle and disorderly persons, for the support of the poor, and designating the duties, and defining the powers of overseers of the poor.

An act for the suppressing of lotteries.

An act to restrain the taking of unlawful interest.

An act for the maintenance of bastard children.

An act for preventing trespasses.

An act for the relief of idiots and distracted persons.

An act relating to attornies.

An act for the establishing of forms of oaths.

An act for the equal distribution of insolvent estates.

An act directing the proceedings against the trustees of absent or absconding debtors.

An act empowering the judge of probate to grant license to sell real estate in certain cases.

An act relative to the attestation of wills.

An act regulating the choice and service of grand jurors.

An act regulating bail in civil causes.

And whereas it would be highly improper that the said acts should take effect, or be in force until they be printed and distributed through the state for the information of the people at large : Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the said acts and laws shall not be in force until the first day of November next, any thing in said acts and laws to the contrary notwithstanding.

Passed February 18, 1791.

Passed June
17, 1791.

AN ACT suspending the operation of sundry acts therein enumerated, and referred to, until a certain period.

WHEREAS in and by an act, entitled, “ An act suspending the operation of sundry acts therein enumerated, until a certain time therein mentioned,” made and passed the eighteenth day of February, Anno Domini 1791, the operation of said acts and laws therein particularly enumerated was suspended until the first day of November next, and whereas it is necessary that the operation of said acts and laws should be further suspended : Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the said acts and laws in said suspending act enumerated, shall not be in force until the first day of February next, any thing in said acts and laws to the contrary notwithstanding.

And whereas the following acts have passed the general court the present session, namely,

An act prescribing the duty and directing the mode of choosing registers of deeds, and county treasurers.

An act for recording proceedings before justices of the peace, and for preserving such records.

An act regulating the office of coroner.

An act regulating licensed houses.

An act to prevent fraud in cordwood exposed to sale.

An act regulating swine.

An act declaring the limits and boundaries of the several counties in this state.

An act for the limitation of actions, and for preventing of vexatious suits.

And whereas it would be highly improper that the before recited acts should take effect, or be in force until they are printed and distributed for the information of the people :

Therefore,

SECT. 2. *Be it further enacted,* That the said acts and laws shall not take effect or be in force until the first day of February next, any thing in said acts and laws to the contrary notwithstanding.

Passed June 17, 1791.

Passed Jan. 5,
1792.

AN ACT in addition to an act, passed the seventeenth day of June last, entitled, “ An act suspending the operation of sundry acts therein enumerated and referred to, until a certain period.”

WHEREAS it was expected at the time of passing the act aforesaid, that the several acts therein enumerated, and those therein referred to, would have been printed and published through this state previously to the first day of February therein mentioned ; but it being found, that through some unfortunate circumstances said acts cannot be published as was expected ; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the operation of the several acts therein enumerated, and those also therein referred to, be, and hereby are further suspended until the first day of July next:

Provided, nevertheless, That an act entitled, "An act to prevent incestuous marriages and to regulate divorces" shall not be suspended hereby; but the same shall be in full force, from and after the first day of February next; any law, usage or custom to the contrary notwithstanding.

Passed January 5, 1792.

AN ACT in further addition to an act, passed the seventeenth day of June, Anno Domini, 1791, entitled, "An act suspending the operation of sundry acts therein enumerated, and referred to until a certain period." *Passed June 20, 1792.*

WHEREAS it is found necessary further to suspend the operation of said acts or laws now known by the name of the revised laws; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the operation of said acts or revised laws, and those also in the said act referred to, be, and hereby are further suspended until the fifteenth day of September next, then to take effect and be in full force: Provided, nevertheless, That an act entitled, "An act to prevent incestuous marriages, and to regulate divorces," shall not be suspended hereby.

Passed June 20, 1792.

AN ACT to repeal sundry Acts and Laws therein mentioned. *Passed June 20, 1792.*

SECT. 1. *BE it enacted by the senate and house of representatives, in general court convened, That the following acts be, and they hereby are repealed: namely,*

An act requiring all persons to take the oaths appointed to be taken instead of the oaths of allegiance and supremacy, passed July 8, 1696.

An act to prevent damages by horses, passed June 8, 1697.

An act to return able and sufficient jurors to serve in the several courts of justice, and to regulate the election of representatives to serve in the general assembly within this province, passed at a session of the general court, begun and holden at Portsmouth, August 7, 1699.

An act for establishing courts of publick justice within this province. passed at the last mentioned session.

An act to prevent impounding cattle wrongfully, passed at a session of the general court, begun and holden at Portsmouth, on the 14th June, 1701.

An act against adultery and polygamy, passed at the last mentioned session.

An act against trespassing in town commons, passed at the last mentioned session.

An act for as much as sheriffs, under sheriffs, and constables, have often times need of aid and assistance in the execution of their respective offices, passed at the last mentioned session.

An act for regulating of tanners, curriers, and cordwainers, and for the better preventing of deceits and abuses by tanners, curriers, dressers, or workers up of leather, passed at the last mentioned session.

An act for the punishing criminal offenders, passed at the last mentioned session.

An act for recording deeds and conveyances, passed at the last mentioned session.

An act for regulation of seamen, passed at a session of the general court begun and holden at Portsmouth on the 21st June, 1701.

An act for taking affidavits out of court, passed at the last mentioned session.

An act for regulating of trials in civil causes, passed at the last mentioned session.

An act for regulating the measure of boards, joist and plank, &c. passed August 23, 1704.

An additional act for the more equal assessing and collecting of publick taxes in this province, passed December 18, 1705.

An act for preventing of trespasses, passed October 16, A. D. 1707.

An act for the encouragement of the inhabitants of her majesty's province of New-Hampshire, in the making of tar, to be transported into her majesty's kingdom of Great Britain, and otherwise for the encouragement of trade, passed 18 November, 1707.

An act for the better preservation of all mast trees, or white pine trees, within her majesty's province of New-Hampshire, passed May 10, 1708.

An act for prevention of frauds and forgery, upon the bills of credit in use in this and the neighbouring provinces, passed 14 May, 1711.

An act to prevent default in appearance of jurors, passed at a session of the general court begun and holden at Portsmouth, 14 May, 1714.

An act for the convenient and speedy assignment of dower, passed at the last mentioned session.

An act against receiving of stolen goods, passed at the last mentioned session.

An act for preventing men's sons or servants absenting themselves from their parents or master's service without leave, passed at the last mentioned session.

An act providing for posthumous children, passed at the last mentioned session.

An act to prevent incestuous marriages, passed at the last mentioned session.

An act directing the proceedings against forcible entry and detainer, passed at the last mentioned session.

An act to prevent fraud in cordwood exposed to sale, passed at the last mentioned session.

An act for the partition of lands, and the recovery of legacies, passed at the last mentioned session.

An act to prevent the destroying and murdering of bastard children, passed at the last mentioned session.

An act for the regulating of prisons, and to prevent escapes, passed at the last mentioned session.

An act relating to attornies, passed at the last mentioned session.

An act concerning marriages, births and burials, passed at the same last mentioned session.

An act to prevent disorders in the night, passed at the last mentioned session.

An act appointing the sheriff to have the keeping of the common gaol and the prisoners therein, passed at the last mentioned session.

And act prohibiting the importation or bringing into this province any Indian servant or slave, passed at the last mentioned session.

An act for the maintenance and supply of the ministry within this province, passed at the last mentioned session.

An act against shipping horses without entry, passed at the last mentioned session.

An act for the inspecting and suppressing of disorders in licensed houses, passed January 6, 1715.

An act for a constable's watch, 14 January, 1715.

An act of privilege to the members of the general assembly, passed at a session of the general court, begun and holden at Portsmouth, on the 13 May, 1718.

An act to prevent charges arising upon this province for prisoners committed for theft, passed at the last mentioned session.

An act against hawkers, peddlars and petty chapmen, passed at the last mentioned session.

An act for prevention of common nuisances, arising by slaughter-houses, still-houses, &c. and curriers, passed at the last mentioned session.

An act about powder money, passed at the last mentioned session.

And act to prevent trespasses in cutting down trees upon land without fence, passed at the last mentioned session.

An act for passing sheriffs' accounts passed, at the last mentioned session.

An act for the better regulation of swine going at large, passed at the last mentioned session.

An act relating to strays and lost goods, passed at the last mentioned session.

An act relating to sureties upon mean process in civil actions, passed at the last mentioned session.

An act to ease people that are scrupulous in swearing, passed at the last mentioned session.

An act for the better regulating of town and proprietary meetings, passed at the last mentioned session.

An act for the regulating of mills, passed at the last mentioned session.

An act for suppressing and punishing of rogues, vagabonds, common beggars, and other lewd, idle and disorderly persons, and also for setting the poor to work, passed at the last mentioned session.

An act for providing of pounds and to prevent rescous and pound breach, passed at the last mentioned session.

An act for the establishing forms of oaths, passed at the last mentioned session.

An act for regulating fees, passed at the last mentioned session.

An act for suppressing robberies and assaults, passed at the last mentioned session.

An act for making of lands and tenements liable to the payment of debts, passed at the last mentioned session.

An act for the payment of cure of soldiers that are wounded, passed at the last mentioned session.

An act to prevent the concealing of estates from assessors, passed at the last mentioned session.

An act for restraining inhuman severities, passed at the last mentioned session.

An act for regulating ferries, passed at the last mentioned session.

An act for the equal distribution of insolvent estates, passed at the last mentioned session.

An act to prevent causeless arrests, &c. passed at the last mentioned session.

An act relating to appeals from judgment in bar, or abatement, passed at the last mentioned session.

An act for the better securing the payment of prison charges, passed at the last mentioned session.

An act for regulating the fishery, passed at the last mentioned session.

An act for encouraging the killing of wolves, passed at the last mentioned session.

An act to enable towns, villages and proprietors in common and undivided lands, to sue and be sued, passed at the last mentioned session.

An act prescribing forms of writs in civil causes, passed at the last mentioned session.

An act for regulating cattle, corn fields, and fences, passed at the last mentioned session.

An act directing the admission of town inhabitants, passed at the last mentioned session.

An act against murder, &c. passed at the last mentioned session.

An act to enable creditors to receive their just debts, out of the effects of their absent or absconding debtors, passed at the last mentioned session.

An act for regulating weights and measures, passed at the last mentioned session.

An act relating to the office and duty of a coroner, passed at the last mentioned session.

An act for regulating townships, choice of town officers, and setting forth their power, passed at a session of the general court begun and holden at Portsmouth, 2d May, 1719.

An act to encourage the raising of sheep within this province, passed at the last mentioned session.

An act against taking more than established fees, passed at the last mentioned session.

An act for encouraging iron works in the province of New-Hampshire, passed at the last mentioned session.

An act providing that in suits where goods or other estate is attached, the defendant be summoned, passed at the last mentioned session.

An act to prevent and make void clandestine and illegal purchases of lands from the Indians, passed at the last mentioned session.

An act to encourage the sowing and curing of hemp, and to preserve pitch pine trees for drawing turpentine, passed at the last mentioned session.

An act for preventing masters of ships conveying debtors out of this province, passed at the last mentioned session.

An act for regulating the assize of casks, and preventing deceit in packing of fish, beef, and pork for sale, passed at the last mentioned session.

An act relating to constables collecting rates or assessments, passed at the last mentioned session.

An act for preventing of frauds and perjuries, passed at the last mentioned session.

An act in addition to an act to prevent damages by horses, passed at a session of the general court, begun and holden at Portsmouth, 18 April, 1721.

An act for the preventing gaming in publick houses, passed at the last mentioned session.

An act to prohibit trade and commerce with the eastern Indians, passed 7 October, 1721.

An act to ascertain the time for the redemption of lands mortgaged on condition, or by deed of sale with defeazance, passed 12 George 1.

An act for the calling and electing assemblymen, and their qualifications, passed 1 George 2.

An act in addition to an act, entitled, an act for regulating fees, passed 4 George 2.

An act for granting unto his majesty an excise on several liquors, passed 5 George 2.

An act in addition to an act, entitled, an act for the suppressing disorders in licensed houses, passed 4 George 2.

An act more effectually to prevent the counterfeiting the bills of credit on this province, passed 12 George 2.

An act for the more easy and speedy assessing and collecting the province rates and taxes, passed 12 George 2.

An act for the preservation and increase of deer within this province, passed 14 George 2.

An act in addition to, and for rendering more effectual, an act, entitled, an act for regulating townships, choice of town officers, and setting forth their power, passed 17 George 2.

An act for altering the time of the sitting of the governor and council, as a court of appeals, in the month of November, and of holding the superior court of judicature, and for empowering and enabling the court of general sessions of the peace within the province of New-Hampshire, to adjourn, passed 26 George 2.

An act to enforce the assessing and collecting of rates and taxes, passed 27 George 2d.

An act for the suppressing of lotteries, passed 27 George 2d.

An act in addition to an act, entitled, an act to return able and sufficient jurors to serve in the several courts of justice, and to regulate the election of representatives to serve in the general assembly, within this province, passed 27 George 2.

An act in addition to an act, entitled, an act for the preventing gaming in publick houses, passed 27 George 2.

An act in addition to an act, entitled, an act to enforce the assessing and collecting of rates and taxes, made and passed in the twenty seventh year of his majesty's reign, passed 28 George 2.

An act to regulate the making and repairing of fences, between improved land, passed 28 George 2.

An act for the more easy and speedy prosecution of actions of ejectment, and for ascertaining the fees for giving seizin therein, passed 29 George 2.

An act for choosing of grand jurors, and directing their services, passed 27 George 2.

An act directing and regulating the appointment and choice of petit jurors, passed 27 George 2.

An act authorizing the choosing or agreeing with persons to collect the publick taxes, and enabling and obliging them to discharge that office in the same manner as constables may and by law are obliged to do, passed 31 George 2.

An act in addition to an act, entitled, an act to prevent fraud in cordwood exposed to sale, made and passed in the 13th year of the reign of her late majesty Queen Anne, passed 31 George 2.

An act to empower watchmen to apprehend and commit disorderly persons, as is therein declared, passed 32 George 2.

An act for setting off debts and mutual demands, in suits at law, being the 13th section of the statute of the 2 George the second, chapter 22, and the 5th section of the statute of 8 George 2, chapter 24, passed 5 George 3.

An act to prevent the abatement of writs and loss of actions, pending by the death of any of the parties concerned in them, before final judgment, being the sixth and seventh paragraphs of the statute of the 8 and 9 of William the 3, chapter 11, passed 5 George 3.

An act to enable the selectmen to change highways, and to apply land left for highways, where it is not suitable, and to purchase land suitable for that purpose where it is wanting, passed 6 George 3.

An act for recording all powers of attorney, or instruments, by virtue of which any deeds of conveyance of houses or lands shall be made, or already made but not so recorded, and for preserving affidavits taken in perpetuam rei memoriam, passed 6 George 3.

An act to invest the overseers of the poor with power more effectually to employ them, and to provide for bringing up of their children more usefully, passed 6 George 3.

An act in addition to an act, entitled, an act for regulating weights and measures, passed 6 George 3.

An act to authorize any town or towns in this province to build or improve, and establish any house within their respective towns, or in any of them, as two or more may agree, for a house of correction, passed 6 George 3.

An act for dividing this province into counties, and for the more easy administration of justice, published and allowed, 19th March 1771.

An act for reviving and making perpetual an act, entitled, an act more effectually to prevent profane cursing and swearing, passed May 3, 1764.

An act to enable the inhabitants of such towns and parishes in this province as have not had a regular method, to call town or parish meetings, or at present have no such method to direct and establish a rule and method for that purpose, passed January 5, 1771.

An act to enable any plaintiff in review of any action against a person not an inhabitant, nor having any estate in this province which can be come at to be attached, to serve the writ on the attorney or agent of the defendant named in such writ, passed 26 February, 1763,

An act to ascertain the value of the premiums to be given for killing wolves, passed January 16, 1771.

An act to regulate the fine set on persons chosen to the office of constable, and refusing to serve in said office, passed 16, January, 1771.

An act to ascertain and regulate the penalties set and imposed in an act of this province against trespassing in town commons, &c. passed 16 January, 1771.

An act to ascertain the fines to be demanded and taken of jurors not attending their duty, passed 16 January, 1771,

An act in addition to an act, made in the fifth year of the reign of King George, the first, entitled, an act for regulating townships, choice of town officers, and setting forth their power.

An act to restrain the taking excessive usury, passed March 1769.

An act for establishing courts of law for the administration of justice within this colony, passed July 5, 1776.

An act for establishing the stile of commissions which shall hereafter be issued, and for altering the stile of writs, processes and all law proceedings within this colony, and for directing how recognizances to the use of this colony shall in future be taken and prosecuted, passed July 3, 1776.

An act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs, and for repealing certain acts herein after mentioned, with all the acts therein mentioned, and all the acts and laws therein and thereby repealed, and all the acts relative to making rates and taxes, the said act was passed 7 February, 1789.

An act to remove any doubts that have or may arise concerning the legality of any taxes granted by the late congress for this colony, and to enforce the payment of taxes in future, passed June 28, 1776.

An act for the better regulating marriages, and for punishing the neglect of registering births and burials, passed July 3, 1776.

An act to invest the overseers of the poor with power more effectually to employ them, and to provide for bringing up their children more usefully, passed July 2, 1776.

An act for the punishment of forgery, passed 16th December, 1771.

An act to vest the property of forfeitures and fines that shall arise and be incurred by law within any of the counties

in this province, as also the money for licenses for liberty to sell spirituous liquors, which by law used to be paid into the publick treasury of the province, and applied to the use of the province, to vest the same in the inhabitants of the respective counties aforesaid, to be applied for the use of the counties, and to authorize the county treasurer to issue his extents as the province treasurer may do by law, passed January 3d, 1772.

An act fixing the times and places for holding the courts in the counties of Strafford and Grafton, passed February 5, 1773.

An act for the better preventing of criminals avoiding of justice, passed May 28, 1773.

An act for limiting the time of prosecuting appeals to the court of supreme probate, passed May 27, 1774.

An act for regulating the choice of county treasurers and recorders of deeds in the several counties in said state, passed December 13, 1776.

An act for preventing and punishing such offences against the state, as do not amount to treason or misprision of treason, passed Jan. 17, 1777.

An act against treason or misprision of treason, and for regulating trials in such cases, and for directing the mode of executing judgments against persons convicted of those crimes, passed January 17, 1777.

An act to prevent the desertion of soldiers, during the present war with Great-Britain, the concealment of deserters, and also the embezzlement of clothes, arms, &c. belonging to the United States of America, passed March 12, 1777.

An act for re-establishing the general system of laws heretofore in force in this state, passed April 9, 1777.

An act to prevent the transfer or conveyance of the estates and property of all such persons who have been, or shall be apprehended for counterfeiting or fraudulently passing any counterfeit bills, notes or currency of this state, or of the United States of America, or either of them, or of the United States lottery tickets, or the loan office certificates, and also of the estates and property of all such persons, against whom warrants have issued, or may issue, for being guilty of either of said offences, and have absconded, or that shall hereafter abscond, passed June 25, 1777.

An act to oblige the members of the council and house of representatives, all officers, civil and military, barristers and attorneys at law to take and subscribe an oath of fidelity to the state, passed Nov. 8, 1777.

An act in addition to an act, entitled, an act to oblige the members of the council and house of representatives, all officers civil and military, barristers and attorneys at law, to take and subscribe an oath of fidelity to the state, passed in

the late general assembly of this state, Nov. 8, 1777, passed March 14, 1778.

An act for altering the time of the sitting of the inferior court of common pleas, in and for the county of Rockingham, from the last Tuesday of February to the first Tuesday of February annually, passed Nov. 19, 1777.

An act to alter the time of the sitting of the court of general sessions of the peace, within and for the county of Rockingham, in the month of February annually, passed Nov. 25, 1777.

An act in addition to the laws of this state, now in force, for preventing trespasses, passed March 13, 1778.

An act for establishing a naval office at Portsmouth, in the county of Rockingham, and for regulating the trade and navigation of this state, passed November 26, 1778.

An act in addition to an act, entitled, an act for establishing courts of law for the administration of justice within this colony, passed November 27, 1778.

An act for repealing the laws relating to wolves, and for fixing the sums hereafter to be given for killing wolves, passed November 28, 1778.

An act to repeal sundry acts of this state, relating to taverners, inn-holders, retailers and common victuallers and for regulating taverns, inns and retailers within said state, passed December 26, 1778.

An act to enable selectmen or town clerks to swear town officers, passed 1 April, 1779.

An act for altering the time of holding of the inferior court of common pleas, and court of general sessions of the peace within the county of Strafford, passed June 25, 1779.

An act to allow appeals to congress in certain maritime causes, passed November 18, 1779.

An act for the better preventing criminal offenders from avoiding justice, passed March 10, 1780.

An act for disposing of such prisoners as have been, or hereafter may be taken by the land or sea forces of this state, passed March 18, 1780.

An act to authorize the treasurer of this state, and the treasurers of the several counties within this state to issue their executions for levying state and county taxes respectively, against individuals in certain towns and places in this state, passed April 6, 1781.

An act for repealing certain clauses in an act passed in the year of our Lord 1773, entitled, an act for fixing the times and places for holding the courts in the counties of Strafford and Grafton, and for making an addition to said act, passed April 4, 1781.

An act to repeal a certain clause of an act, entitled, an act to repeal sundry acts of this state, relating to taverns,

inns and retailers within this state, passed December 26, 1778.—Additional act passed March 30, 1781.

An act in addition to the law already in force for the regulation of swine, passed April 6, 1781.

An act in addition to an act of this state, entitled, an act against treason and misprision of treason and for regulating trials in such cases, and for directing the mode of executing judgments against persons convicted of those crimes; and also in addition to an act, entitled, an act for preventing and punishing such offences against this state as do not amount to treason or misprision of treason, passed 6 April, 1781.

An act in addition to an act for establishing a naval office in Portsmouth, in the county of Rockingham, and for regulating the trade and navigation of this state, passed July 4, 1781.

An act for granting an excise on several sorts of liquors for the use of this state, passed September 1, 1781.

An act for preventing the subjects of his Britannic majesty, and all other persons inimical to the United States of North America, from prosecuting actions, serving as jurors, or acting as town officers within this state, passed November 28, 1781.

An act for repealing all the laws heretofore made by the province, colony or state of New-Hampshire, relating to killing wolves, and for fixing the premiums hereafter to be given for killing those animals, passed January 17, 1782.

An act in addition to and amendment of an act, entitled, an act for repealing all the laws heretofore made by the province, colony or state of New-Hampshire relating to killing wolves, and for fixing the premiums hereafter to be given for killing those animals, passed January 17, 1782.—The additional act passed November 10, 1785.

An act for altering the time of holding the inferior courts of common pleas, and courts of general sessions of the peace in the county of Strafford, passed March 22, 1782.

An act in addition to and alteration of an act, entitled, an act for establishing courts of law for the administration of justice within this colony, passed March 25, 1782.

An act for the ease and relief of prisoners for debt, passed June 21, 1782.

An act to encourage the taking up, and securing all such British prisoners of war taken from the enemy who have escaped, or shall hereafter escape from the places of their confinement, and for punishing those persons who are aiding or assisting them therein, passed June 27, 1782.

An act for the encouraging of the taking up and securing deserters from the New-Hampshire line of the continental army, and for punishing those persons who harbour or secrete them, knowing them to be such, passed June 27, 1782.

An act in addition to an act, entitled, an act for granting an excise on several sorts of liquors for the use of this state, the said additional act passed 28 December, 1782.

An act to authorize the congress of the United States of America, to levy a duty not exceeding five per centum upon goods imported into, and prizes condemned within this state, passed 6 April, 1781.

An act for granting to the United States in congress assembled, certain imposts and duties upon foreign goods imported into this state; and for the purpose of paying the principal and interest of the debt contracted in the prosecution of the late war with Great-Britain, passed 2 January, 1784.

An act for altering sundry articles in the table of fees now established and used in this state, passed 3 January, 1784.

An act in addition to an act, entitled, an act for the ease and relief of prisoners for debt, passed 3 January, 1784.

An act in addition to an act, entitled, an act for the ease and relief of prisoners for debt, made and passed 21 June, 1782.—This additional act passed 10 June, 1789.

An act in addition to and amendment of the acts establishing a table of fees, passed 16 January, 1787. And all acts heretofore passed establishing fees.

An act for establishing a light-house, passed 16th April, 1784.

An act in addition to an act, entitled, an act for establishing a light house, passed April 16th, 1784.—The additional act passed 11 November, 1784.

An act to alter and extend the act about powder money, passed April 16, 1784.

An act for laying an impost duty on sundry goods imported into this state, passed 17 April, 1784.

An act to invest the United States in congress assembled, with additional powers for a limited time, passed November 5, 1784.

An act to vest the United States in congress assembled, with full power to regulate trade and enter into treaties of commerce, passed June 23, 1785.

An act to vest the United States in congress assembled, with full powers to regulate commerce, passed June 19, 1786.

An act to vest the United States in congress assembled, with full power to regulate trade, and enter into treaties of commerce, passed December 23, 1786.

An act in addition to an act, entitled, an act for the equal distribution of insolvent estates.—The additional act passed November 11, 1784.

An act to alter and establish the times and places of holding the several courts of judicature within this state, passed February 17, 1785.

An act for the regulation of navigation and commerce, passed June 23, 1785.

An act for altering the time of holding the inferior court of common pleas, holden by law on the first Tuesday of June annually, at Portsmouth, in and for the county of Rockingham, passed March 3, 1786.

An act to prevent unnecessary costs to debtors by creditors bringing actions of debt on judgments, where such creditors might have availed themselves of execution on the same judgments, passed June 23, 1786.

An act to empower the several towns and parishes in this state, to choose new constables and collectors in the room of such constables and collectors as have deceased, or may hereafter decease, or have absconded, or shall hereafter abscond without completing the collection of the taxes committed to them, and to authorize such new elected constables and collectors to complete such collection, passed December 25, 1786.

An act for extending the powers and authority of the maritime court, in this state, passed January 12, 1787.

An act to enable three justices of the peace *unus quorum* to determine all disputes concerning the maintenance of the poor, passed June 19th, 1787.

An act to set off mutual executions against each other, passed June 21, 1787.

An act for altering the time of the sitting of the inferior court of common pleas, and the court of general sessions of the peace at Charlestown in the county of Cheshire, passed June 23, 1787.

An act in addition to, and explanation of an act for granting an excise on several sorts of liquors for the use of this state, passed June 27, 1787.

An act in addition to an act for setting off debts and mutual demands, passed June 27, 1787.

An act in addition to, and in explanation of an act, entitled, an act relating to constables collecting rates and assessments, passed September 27, 1787.

An act to raise a revenue to this state by excise, passed September 28, 1787.

An act for reducing the number of terms for holding the court of general sessions of the peace within the several counties in this state, passed February 7, 1789.

An act in addition to an act, entitled, an act for the ease and relief of prisoners for debt, made and passed June 21, 1782.—Additional act passed June 10, 1789.

An act to facilitate the collection of taxes, passed June 13, 1789.

An act directing the mode of filling summonses in civil actions, passed June 19th, 1789.

An act in addition to the laws now in force, providing for the support and maintenance of the poor, passed January 22d, 1790.

An act for laying out highways, passed February 27th, 1786.

SECT. 2. *And be it further enacted*, That, that part of an act made and passed by the general court of said state, on the first day of September, in the year of our Lord, one thousand seven hundred and eighty-one, entitled, an act for making gold and silver a tender for all debts, and for settling the depreciation of the paper currency, and for the future regulation of the courts of justice in this state,—which is contained and expressed in the words following, namely, “and to discourage the multiplying of suits, *Be it enacted by the authority aforesaid*, That the justices of the several courts within this state be, and they hereby are empowered to continue and suspend giving judgment upon any suits or actions brought before them for recovery of debts due on contracts from time to time, not exceeding the term of two years as they shall judge reasonable, upon considering the respective circumstances of each suit, unless the creditor shall choose to have judgment rendered in bills of the new emission; in which case the judges of the several courts are hereby empowered to make up judgment after the rate of a dollar and seven eighths of a dollar in said bills, for one Spanish milled dollar.

And whereas securities are often given for other articles besides money, and in this scarcity of gold and silver, it may be very injurious to debtors to be obliged immediately to raise gold and silver to discharge the same.—*Be it therefore enacted*, That in such cases it shall and may be lawful for the several courts in making up judgment, to order the debtors to deliver the articles specified in their respective securities, by a certain day, not exceeding the term of three months from the time of giving judgment, and in default, that execution shall issue for the value in silver and gold.—*And be it further enacted, by the authority aforesaid*, That the fees taken by the courts and officers of this state, be the same as were established by an act of the legislature of the late province of New-Hampshire, passed the 12th day of March, 1768, entitled, an act in amendment of the acts for establishing fees belonging to the several officers in this province,”—be, and the same is hereby repealed.

Provided always, That this act shall not take effect until the fifteenth day of September next, at which time it shall be in full force.

Provided, nevertheless, That the aforesaid repealed acts or laws shall be in full force as to all matters done or transacted during their existence, to which they relate, to all intents and purposes as though the repealing act aforesaid had not been made. And all such matters may be prosecuted, commenced, done and completed at any time hereafter, pursuant to the same laws; except however, the act before

mentioned, entitled, an act to prevent incestuous marriages, which shall be considered as repealed from and after the seventeenth day of June, in the year of our Lord, one thousand seven hundred and ninety-one.

*Passed June 20, 1792.**

* The original varies from this copy (which is printed from the former editions) in some unimportant particulars, such as *figures* or *abbreviations* in the one, and *words* or *words at length* in the other, &c. But these variations in no case alter the sense.

AN ACT ascertaining the rates at which coined Silver and Gold, and English halfpence and farthings may pass within this state, passed February 12, 1785.

Repealed by act passed June 19, 1793.

AN ACT to encourage the importation of Drugs and Wood used in dying cloths, artificers' tools, Spanish wool, raw silk and other raw materials, passed June 23, 1786.

Repealed by act passed December 7, 1792, entitled, an act to repeal certain acts.

AN ACT to encourage the importation of coined Gold and Silver into this state, passed June 24, 1786.

Repealed by act passed December 7, 1792, entitled an act to repeal certain acts. It was supposed that the constitution and laws of the United States had rendered these acts inoperative.

AN ACT for opening Sluices in each dam across Ashuelot river, so that Salmon and other fish may have free passage through the same from Connecticut river, passed January 15, 1789.

Repealed by act passed for the purpose June 16, 1794; with a saving as to all matters transacted during its existence.

AN ACT to prevent the destruction of Salmon in Ammonusuck river, passed June 22, 1786.

Repealed by act passed for the purpose June 20, 1798: the words are, an act to repeal an act, entitled, "*An act for the preservation of Salmon in Ammonusuck river, passed June 22, 1786.*" Be it enacted &c. that the above recited act for the preservation of salmon in Ammonusuck river be, and it hereby is *rejected*.

AN ACT for the better preservation and increase of Deer within this state. Passed November 25, 1778.

Repealed by act for the purpose, passed December 7, 1798.

Passed June
18, 1805.

AN ACT to repeal sundry acts therein mentioned.

BE it enacted by the senate and house of representatives, in general court convened, That the following acts be, and the same are hereby repealed; namely.—An act for the appointment of special justices, passed June 26th, 1786.

An act to regulate flaxseed, potash and pearlash for exportation, passed June 23d, 1785.

An act in addition to an act, entitled, an act, to regulate flaxseed, potash and pearlash for exportation;—this additional act passed June 27th, 1787.

An act in addition to and for the amendment of an act, entitled, an act to regulate flaxseed, potash and pearlash for exportation;—this last additional act passed September 27th, 1787.

An act to regulate the exportation of beef and pork, passed June 16th, 1791.

An act for repealing a clause in an act for regulating the exportation of beef and pork, passed the sixteenth day of June last, the latter act passed December 27th, 1791.

An act to encourage the manufacturing of linseed oil within this state, passed June 21st, 1786.

An act to encourage the erecting of mills for slitting, rolling and plating iron, and to encourage and promote the manufacturing of nails within this state, passed September 22d, 1787.

An act to encourage the erecting of proper buildings for carrying on the manufacture of sail cloth or duck within this state, passed the 3d day of February 1789.

An act providing remedy when executions are levied upon estate not the property of the debtor, passed February 1st, 1791.*

Provided always, That the present act shall not be construed in any degree to infringe or impair any rights acquired under either of the acts aforesaid.

Approved June 18, 1805.

*This act never was printed, see note page 184.

Passed May
27, 1774.

AN ACT for limiting the time of prosecuting Appeals to the Court of Supreme Probate.

WHEREAS by the laws of this province now in force, no time is limited for prosecuting appeals from the decrees or orders of any of the judges of probate in this province to the governor and council as the court of supreme probate for said province; Therefore,

Be it enacted by the governor, council and assembly, That any person who shall find himself aggrieved by any decree, order or sentence that shall be made and passed by

any judge of probate within any county in this province relating to any matter coming legally before him, any person so aggrieved may appeal from such order, decree or sentence at any time within three months from the passing such decree, order or sentence, and at no time afterwards. And that every appeal that shall be so made from any decree, order or sentence of any judge of probate as aforesaid, to the supreme probate aforesaid, shall be entered and prosecuted within three months next after said appeal shall be taken.

And the appellant shall give bond to the judge of probate, from whose sentence, order or decree the appeal is made, to prosecute the same accordingly: Which bond the judges of probate respectively, are hereby authorized to assign to the party for whose benefit it was taken; and the assignee is hereby authorized to bring a suit thereon in his own name, and to recover such damage as he shall sustain in default of prosecuting such appeal.

Passed May 27, 1774.

This act never was printed. It was repealed by act of June 20, 1792.

AN ACT in compliance with the Treaty of Peace between the United States and his Britannic Majesty, and with the recommendation of Congress of the 14th of January, 1784, founded thereon. Passed Sept. 15, 1786.

WHEREAS several acts and laws, during the late war with Great-Britain, were passed by this state, which are found to be incompatible with the definitive treaty of peace and friendship: and whereas congress did, on the 14th day of January, 1784, earnestly recommend to the legislatures of the respective states, to reconsider and revise all their acts and laws respecting the premises, so as to render such acts and laws perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which, on the return of the blessings of peace, should universally prevail:

Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the fourth article of the said definitive treaty, viz. "It is agreed that the creditors on either side, shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts, heretofore contracted," be complied with as far as it respects this state; and that the subjects of his Britannic majesty, shall meet with no lawful impediment to the recovery of any such debts, but shall have a right to recover the same, in the manner and way solemnly stipulated in said article.

SECT. 2. *And be it further enacted*, That in case any of the estates, rights and properties of any real British subjects, or any of the estates, rights and properties of any person or persons, resident in any district or districts, which were in the possession of his Britannic majesty's arms, between the 30th day of November, 1782, and the 14th day of January, 1784, and who have not borne arms against the United States, shall have been confiscated, the act, or acts so confiscating, shall be, and hereby are repealed. And persons of any other description, shall have free liberty to go to any part or parts of this state (provided that within fourteen days after their first arrival, they lodge their names in the secretary's office) and to reside in any town, place or district herein, during the space of one year, to commence from the day of their first arrival in this state, and no longer; and to remain unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties, as have been confiscated.

SECT. 3. *And be it further enacted, by the authority aforesaid*, That the act of this state, passed the 19th day of November, 1778, entitled, "An act to prevent the return to this state, of certain persons therein named, and of others "who have left, or shall leave this state, or either of the "United States of America, and have joined, or shall join "the enemies thereof," so far as the same militates with the said articles of peace: also the act passed the 28th day of November, 1778, entitled, "An act to confiscate the estates "of sundry persons therein named," together with the additional acts to the said two acts, and all other acts and resolves of this state, so far as they militate with, or are repugnant to, the spirit and meaning of said treaty of peace and friendship, between the United States and his Britannic majesty, shall be, and hereby are repealed and made void.

Passed September 15, 1786.

Passed June
21, 1787.

AN ACT to repeal all acts, resolves and clauses of acts, repugnant to the treaty of peace between Great-Britain and the United States.

WHEREAS certain laws, statutes,* or resolves, made and passed in this state, prior to such treaty, are regarded and complained of, as repugnant to the treaty of peace with Great-Britain, by reason whereof, not only the good faith of the United States, as pledged by that treaty, has been drawn into question, but their essential interests under that treaty, greatly affected: and whereas justice to Great-Britain, as well as regard to the honour and interests of the United States, require that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do, or may be construed, to proceed from the laws of this state, be effectually removed; Therefore,

* In the original *statutes*.

Be it enacted by the senate and house of representatives, in general court convened, That such of the acts, resolves, or parts of acts, of the legislature of this state, as are repugnant to the treaty between the United States, and his Britannic majesty, or any article thereof, shall be, and hereby are repealed.

And further that the courts of law and equity within this state, be, and hereby are directed and required, in all causes and questions cognizable before them respectively, arising from, or touching the said treaty, to decide and adjudge according to the tenor, true intent, and meaning of the same; any thing in said acts, resolves, or parts of acts, to the contrary thereof, in any wise, notwithstanding.

Passed June 21, 1787.

AN ACT to quiet all bona fide purchasers of Lands, between a line crossing over lands upon a straight course, from the northeast extremity of the east line of Mason's patent, being sixty miles from the sea, on a straight line, and running to the extremity of the western side line of said patent, at sixty miles distance from the sea, on a straight line, and the curve line (so called) claimed by the persons calling themselves the Masonian proprietors, as the head line of said patent.

Passed June 28, 1787.

WHEREAS doubts may arise in the minds of honest settlers, and bona fide purchasers, that they may be disturbed in their possessions, if the lands between the said head line, at the end of sixty miles and the said curve line, should be recovered and taken possession of by the state;

Wherefore to remove all such doubts,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened, That all lands situate between the said curve, and straight lines, which were bona fide granted, or sold by the King of Great-Britain, or by the persons calling themselves the Masonian proprietors, or by the persons claiming the lands within the said patent, in the right of Samuel Allen, Esq. prior to the first day of June, 1786, be, and hereby are quieted in the title of lands so purchased, so far as that the state shall not hereafter disturb, or interfere with such titles.*

SECT. 2. *And be it further enacted, That such persons as have entered and made improvements, upon tracts of land between the said curve and straight lines, that have not been heretofore granted or sold, by the King of Great-Britain, the Masonian proprietors, or the heirs of Samuel Allen, Esq. such persons or inhabitants shall be quieted in their possession, upon paying to this state the value of uncultivated lands in the vicinity of the same.*

SECT. 3. *And be it further enacted*, That the boundaries of all townships within this state, shall be, and remain as heretofore fixed and established, notwithstanding any alteration that may happen in the establishment of the head line of said patent.

Provided, nevertheless, That nothing in this act contained, shall be construed to extend to lands now claimed by persons commonly called the Masonian proprietors, or their heirs ; or the proprietors claiming under Samuel Allen, Esq. or their heirs, in their own right ; or any township granted or conveyed to, and among themselves, not bona fide conveyed to any other persons, or to any lands reserved by them, or either of them, to and for the use of themselves and their heirs.

Passed June 28, 1787.



Passed June
18, 1788.

AN ACT to empower and authorize certain persons therein named, to convey to the persons commonly called the Masonian Proprietors, all the interest and title of the said state, in, and to the lands lying between the curve line claimed by said Proprietors as the head line of Mason's Patent, and a straight line lately run by order of the general court of said state ; and to accept of certain securities therefor, in behalf of said state.

WHEREAS by a vote of the house of representatives, concurred in the senate, it has been determined by the general court, to release to the said proprietors all the right, title, claim, interest and demand of said state, in and to the lands aforesaid, on condition said proprietors secure to the state, the payment of forty thousand dollars, in state securities, and eight hundred dollars, in specie, therefor ; and whereas the said proprietors, by their agents, have in writing, declared their acceptance of the terms and conditions aforesaid, in order to a final settlement of the controversy between the state and said proprietors, respecting the said lands : Therefore, in order, and to the intent, that said agreement may be completed,

Be it enacted by the senate and house of representatives, in general court convened, That Thomas Bartlett, Dudley Odlin and Archibald M'Murphy, esq's. be, and they hereby are appointed a committee or agents on the part and behalf of the state, to release, quit claim, and convey to the said proprietors, all the right, title, interest, claim and demand of said state, in and unto the lands aforesaid, with full powers and authorities to them or the major part of them, to make and execute any deed or deeds for the purpose aforesaid, which deed or deeds shall be valid and effectual in law to all intents and purposes, to convey to said proprietors, their successors, heirs and assigns forever, all the right, title, interest, claim and demand of said state to the

lands aforesaid : and also they, or the major part of them, to receive and accept from said proprietors, or their agents, security or securities for the payment of the said forty thousand dollars, in state securities, and eight hundred dollars, in specie, as aforesaid, for and in behalf of the state.

Passed June 18, 1788.

AN ACT for the better payment of Inland Bills of Exchange.

Stat. 9 and 10
of Wm. 3d.
c. 17

WHEREAS great damages and other inconveniences do frequently happen in the course of trade and commerce, by reason of delays of payment and other neglects on inland bills of exchange in this kingdom ;

SECT. 1. *Be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and the commons of this present parliament assembled, and by the authority of the same,* That from and after the four and twentieth day of June next, which shall be in the year one thousand six hundred and ninety-eight, all and every bill or bills of exchange drawn in, or dated at and from any trading city or town, or any other place in the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, of the sum of five pounds sterling or upwards, upon any person or persons of or in London, or any other trading city, town, or any other place (in which said bill or bills of exchange shall be acknowledged and expressed the said value to be received) and is and shall be drawn payable at a certain number of days, weeks or months after date thereof, that from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the parties hands so accepting) and after the expiration of three days after the said bill or bills shall become due, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the said bill or bills to be protested by a notary publick, and in default of such notary publick, by any other substantial person of the city, town or place, in the presence of two or more credible witnesses, refusal or neglect being first made of due payment of the same, which protest, shall be made and written under a fair written copy of the said bill of exchange, in the words or form following :

Know all men, that I, A. B. on the day of at the usual place of abode of the said have demanded payment of the bill, of which the above is the copy, which the said did not pay, wherefore I the said do hereby protest the said bill. Dated at this day of

SECT. 2. Which protest so made, as aforesaid, shall, within fourteen days after making thereof, be sent, or otherwise due notice shall be given thereof to the party from whom the said bill or bills were received, who is, upon producing such protest, to repay the said bill or bills, together with all interest and charges from the day such bill or bills were protested; for which protest shall be paid a sum not exceeding the sum of six pence; and in default or neglect of such protest made and sent, or due notice given within the days before limited, the person so failing or neglecting thereof, is and shall be liable to all costs, damages and interest which do and shall accrue thereby.

SECT. 3. *Provided, nevertheless,* That in case any such inland bill or bills of exchange shall happen to be lost or miscarried within the time before limited for payment of the same, then the drawer of the said bill or bills is, and shall be obliged to give another bill or bills of the same tenor with the first given, the person or persons to whom they are and shall be so delivered giving security, if demanded, to the said drawer, to indemnify him against all persons whatsoever, in case the said bill or bills of exchange so alleged to be lost or miscarried, shall be found again.

Stat. 3 and 4 *AN ACT for giving like remedy upon Promissory Notes,*
Ann. c. 9. *as is now used upon bills of Exchange, and for the better
payment of Inland bills of Exchange.*

WHEREAS it hath been held, that notes in writing, signed by the party who makes the same, whereby such party promises to pay unto any other person, or his order, any sum of money therein mentioned, are not assignable or endorsable over within the custom of merchants, to any other person; and that such person to whom the sum of money mentioned, in such note is payable, cannot maintain an action, by the custom of merchants, against the person who first made and signed the same; and that any person to whom such note should be assigned, endorsed, or made payable, could not, within the said custom of merchants, maintain any action upon such note against the person who first drew and signed the same: Therefore, to the intent to encourage trade and commerce, which will be much advanced, if such notes shall have the same effect as inland bills of exchange, and shall be negotiated in like manner;

Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by the authority of the same, That all notes in writing that after the first day of May, in the year of our Lord one thousand seven hundred and five, shall be made and signed by any person or persons, body politick or cor-

porate, or by the servant or agent of any corporation, banker, gold-smith, merchant, or trader, who is usually intrusted by him, her, or them, to sign such promissory notes for him, her or them, whereby such person or persons, body politick and corporate, his, her, or their servant or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politick and corporate, his, her or their order, or unto bearer, any sum of money mentioned, in such note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons, body politick, and corporate, to whom the same is made payable; and also every such note payable to any person or persons, body politick and corporate, his, her or their order, shall be assignable or endorsable over, in the same manner as inland bills of exchange are or may be, according to the custom of merchants; and that the person or persons, body politick and corporate, to whom such sum of money is or shall be by such note made payable, shall and may maintain an action for the same, in such manner, as he, she or they might do, upon any inland bill of exchange, made or drawn according to the custom of merchants, against the person or persons, body politick and corporate, who, or whose servant or agent, as aforesaid, signed the same; and that any person or persons, body politick and corporate, to whom such note that is payable to any person or persons, body politick and corporate, his, her or their order is endorsed or assigned, or the money therein mentioned ordered to be paid by endorsement thereon, shall and may maintain his, her or their action for such sum of money, either against the person or persons, body politick and corporate, who, or whose servant or agent, as aforesaid, signed such note, or against any of the persons that endorsed the same, in like manner as in cases of inland bills of exchange: And in every such action the plaintiff or plaintiffs shall recover his, her or their damages and costs of suit; and if such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her or them, the defendant or defendants shall recover his, her or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, defendant or defendants respectively recovering, may sue out execution for such damages and costs, by *capias*, *feri facias*, or *elegit*.

II. *And be it further enacted by the authority aforesaid*, That all and every such actions shall be commenced, sued and brought within such time as is appointed for commencing or suing actions upon the case, by the statute made in the one and twentieth year of the reign of king James the first, entitled, *An act for limitation of actions, and for avoiding suits in law*.

III. *Provided*, That no body politick or corporate shall have power, by virtue of this act, to issue or give out any notes by themselves or their servants, other than such as they might have issued if this act had never been made.

IV. *And whereas by an act of parliament made in the ninth year of the reign of his late majesty king William the third, entitled, An act for the better payment of inland bills of exchange, it is, among other things enacted, That from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the parties hand so accepting) and after the expiration of three days after the said bill or bills shall become due, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the same bill or bills to be protested in manner as in the said act is enacted : And whereas by there being no provision made therein for the protesting such bill or bills, in case the party on whom the same are or shall be drawn refuse to accept the same, by under-writing the same under his hand, all merchants and others do refuse to under-write such bill or bills, or make any other than a promissory acceptance, by which means the effect and good intent of the said act in that behalf is wholly evaded, and no bill or bills can be protested before, or for want of such acceptance by under-writing the same, as aforesaid : For remedy whereof, Be it enacted by the authority aforesaid, That from and after the first day of May, which shall be in the year of our Lord one thousand seven hundred and five, in case upon presenting of any such bill or bills of exchange, the party or parties on whom the same shall be drawn, shall refuse to accept the same, by under-writing the same, as aforesaid, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the said bill or bills to be protested for non-acceptance, as in case of foreign bills of exchange ; any thing in the said act, or any other law, to the contrary notwithstanding : for which protest there shall be paid two shillings, and no more.*

V. *Provided always, That from and after the said first day of May, no acceptance of any such inland bill of exchange shall be sufficient to charge any person whatsoever, unless the same be under-written or endorsed in writing thereupon ; and if such bill be not accepted by such under-writing or endorsement in writing, no drawer of any such inland bill shall be liable to pay any costs, damages, or interest thereupon, unless such protest be made for non-acceptance thereof, and within fourteen days after such protest the same be sent, or otherwise notice thereof be given to the party from whom such bill was received, or left in writing at the place of his or her usual abode ; and if such bill be accepted, and not paid before the expiration of three days after the said bill shall become due and payable, then no drawer of such bill shall be compellable to pay any costs, damages, or interest thereupon, unless a protest be made and sent, or notice thereof be given, in manner and form*

above mentioned: Nevertheless, every drawer of such bill shall be liable to make payment of costs, damages and interest, upon such inland bill, if any one protest be made for non-acceptance, or non-payment thereof, and notice thereof be sent, given or left as aforesaid.

VI. *Provided*, That no such protest shall be necessary, either for non-acceptance or non-payment of any inland bill of exchange, unless the value be acknowledged and expressed in such bill to be received, and unless such bill be drawn for the payment of twenty pounds sterling or upwards; and that the protest hereby required for non-acceptance, shall be made by such persons as are appointed by the said recited act to protest inland bills of exchange for non-payment thereof.

VII. *And be it further enacted*, That from and after the said first day of May, if any person doth accept any such bill of exchange for and in satisfaction of any former debt, or sum of money formerly due unto him, the same shall be accounted and esteemed a full and complete payment of such debt, if such person accepting of any such bill for his debt doth not take his due course to obtain payment thereof, by endeavouring to get the same accepted and paid, and make his protest, as aforesaid, either for non-acceptance, or non-payment thereof.

VIII. *Provided*, That nothing herein contained shall extend to discharge any remedy, that any person may have against the drawer, acceptor or endorser of such bill.

AN ACT to divide the state into Districts for the choice of Senators, passed December 29, 1803.

Virtually repealed by act of June 22, 1813, p. 45, and see note p. 44.

AN ACT for establishing salaries of the justices of the superior court of judicature, passed June 18, 1802.

Repealed by act of June 28, 1809, which latter act with all former acts on this subject was repealed by act of June 24, 1813, p. 76, 80.

RESOLVE granting Jeremiah Smith 500 dollars annually in addition to his salary of Chief Justice, passed June 16, 1804.

[SPECIAL.]

AN ACT for establishing salaries of the justices of the Superior Court of Judicature, passed June 23, 1809.

Repealed by act of June 24, 1813, p. 76, 80.

AN ACT establishing the times and places for holding the superior courts and courts of common pleas, passed December 15, 1796.

It took effect January 1, 1797.

AN ACT relative to the court of common pleas in the county of Strafford, passed December 27, 1798.

This act provides that the C. C. P. to be holden at Gilmantown on the 3d Tuesday of August annually, shall be holden "at or near the academy."

AN ACT to alter one of the terms of the court of common pleas in the county of Grafton, passed December 9, 1800.

This act alters the C. C. P. at Plymouth from the 1st Tuesday to the 2d Tuesday of September, annually.

AN ACT to alter one of the terms of the court of common pleas in the county of Grafton, passed June 10, 1803.

This act alters the C. C. P. at Haverhill from the first Tuesday of March to the last Tuesday of February, annually.

AN ACT altering one of the terms of the superior court of judicature in the counties of Hillsborough, Cheshire and Grafton, passed December 20, 1803.

AN ACT altering one of the terms of holding the superior court of judicature in the counties of Coos, Grafton and Hillsborough, passed June 18, 1805.

AN ACT altering one of the terms of the superior court of judicature in the counties of Hillsborough and Cheshire, passed June 12, 1807.

AN ACT establishing the times and places for holding the superior courts of judicature, and courts of common pleas, passed June 20, 1810.

This act which took effect Dec. 1, 1810, repealed all "laws for establishing the times and places for holding the superior courts of judicature and courts of common pleas" then in force "so far as respects the times and places of holding the same." This act was repealed by act of June 24, 1813, p. 73, 74, 80.

AN ACT to cause the several towns, parishes and places within this state to be surveyed for the purpose of obtaining a map of the state, passed December 30, 1803.

[SPECIAL.]

AN ACT in addition to an act, entitled, an act obliging the selectmen of the several towns within this state to cause an accurate survey of the same to be made and to transmit a map thereof to the secretary of this state on or before the first Wednesday of November one thousand eight hundred and five, passed June 18, 1805.*

[SPECIAL.]

* This is not the title of the act though it professes to give the title, but is the substance of the first section.

MILITIA.

All acts and resolves for arranging, forming and regulating the militia, passed before the 22d day of December, 1808, having been repealed by the act of that date, are not published in this edition.—Those contained in the edition of 1805, with such as have been published since (up to December 22, 1808) amount to 46 in number. Such of them as were publick and general are incorporated into the act now in force.

The following, in addition to the acts on the subject of the militia, contained in the body of the work from page 287 to page 310, have been passed, *viz.*

AN ACT granting compensation to the Militia of this State when detached and called into actual service, passed December 17, 1812.

[SPECIAL.]

RESOLVE relative to the arms loaned to the students of Dartmouth College and to others prior to the year 1810, passed December 16, 1812.

[SPECIAL.]

AN ACT granting compensation to the Militia of this State now detached or enlisted and called into actual service, passed June 24, 1814.

[SPECIAL.]

AN ACT to authorize his excellency the governor of this state to appoint a paymaster for a special purpose, passed June 24, 1814.

[SPECIAL.]

RESOLVE relative to the payment of the military watch stationed near little harbour in 1812, passed June 24, 1814.

[SPECIAL.]

RESOLVE appropriating 50,000 dollars for defence of Portsmouth, and empowering the treasurer to borrow to that amount, passed June 24, 1814.

[SPECIAL.]

AN ACT to prevent the keeping of large quantities of Gun-powder, in private houses in Portsmouth, and for appointing a keeper of the magazine belonging to said town, passed February 28, 1786.

Repealed by act with similar title, passed February 18, 1794, p. 460.

Passed June
16, 1796.

AN ACT to prevent persons from digging up the bodies of dead People.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That if any person or persons shall enter any church yard, or any publick or private burying place, or any place where persons are buried in this state, and there dig up, or carry away any human body, or the remains thereof, or shall directly or indirectly be aiding or assisting therein,* shall for every such offence, on conviction thereof before the justices of the superior court, be fined a sum not exceeding one thousand dollars, be publickly whipped not exceeding thirty-nine stripes, or be imprisoned not exceeding one year, as the court before whom the conviction shall be, considering the nature and aggravation of the offence may order.

SECT 2. *And be it further enacted,* That all fines arising by this act, shall be one half thereof to the informant, the other moiety to the use of the county where the offence was committed.

Provided, nevertheless, That this act shall not extend to any person or persons who may have a license from any justice of the peace in the county where such person is buried, authorizing him or them to dig up such dead body, when complaints are made, and suspicions entertained, that the deceased came to his or her death by some unlawful means,

* *He or they wanting in the original*

or to any relation or friend of the deceased, wishing to remove the said body to some other ground, or to any person taking up the body of a criminal, having purchased the same of said criminal for the purpose of dissection, having a certificate therefor from a justice in such county; nor shall this act be construed to extend to prevent any town or place in this state from removing the dead from one burying ground or field to another, where it is provided for by vote of said town or place.

Approved June 16, 1796.

Repealed by act passed June 22, 1810, p. 339. with a saving for prosecutions or indictments commenced or pending.

AN ACT for the better regulation of Schools within this state, and for repealing all laws now in force respecting the same, passed December 13, 1804.

AN ACT in addition to an act, entitled, an act for the better regulation of Schools within this state, and repealing all laws now in force respecting the same, passed June 18, 1807.

This act repealed the first section of the act to which it was an addition; and both acts were repealed by act passed December 22, 1808, p. 368, now in force—the latter act took effect February 1, 1809.

AN ACT for the suppression of Lotteries, passed February 14, 1791.

This act was repealed on the first day of October, 1807, by act passed June 12, 1807, with a similar title, p. 395.

AN ACT authorizing the Superior Court of Judicature, to cause Highways to be established in certain cases, passed December 2, 1812.

AN ACT to repeal an act, entitled, "An act authorizing the Superior Court of Judicature, to cause Highways to be established in certain cases," passed June 24, 1814.

The act of December 2, 1812, is not here inserted at length, because no proceedings were had under it.

AN ACT to repeal the act made and passed February 28, 1794, entitled, an act establishing a road laid out from Hale's bridge, so called, in the county of Cheshire, to Chester in the county of Rockingham, passed June 17, 1812.

The operation of the act of February 28, 1794, as far as it respects Goffstown, was suspended for one year, from the last Wednesday of June, 1811, by act of June 18, 1811—The road never was opened, and the act for establishing it need not now be published.

AN ACT to prevent damage which may be done by lumber to the owners of Lands lying on and adjoining Connecticut river and Merrimac river, passed January 4, 1792.

AN ACT in addition to and amendment of an act, entitled, "An act to prevent damage which may be done by lumber to the owners of lands lying on, and adjoining Connecticut river and Merrimac river, passed the fourth day of January one thousand seven hundred and ninety two, passed June 17, 1794."

AN ACT in addition to an act, entitled, "An act in addition to, and amendment of an act, entitled, an act to prevent damage which may be done by lumber to the owners of lands lying on, and adjoining Connecticut river and Merrimac river, passed June 17, 1794." Passed June 14, 1800.

The three foregoing acts were repealed by the act, entitled, an act to prevent damage which may be done by lumber to owners of land lying on and adjoining any river in this state, passed December 28, 1805, p. 397.

AN ACT to prevent Masts, Spurs and other timber being put into Connecticut river without being rafted, passed June 18, 1807.

This act was repealed by act of June 10, 1808, regulating the mode of putting pine timber into Connecticut river, p. 399.

AN ACT to prohibit any person from hauling or removing Sea-weed from the sea shore in Rye, passed June 14, 1800.

Repealed by act of June 21, 1814, entitled, an act regulating the piling, hauling and removing of sea-weed and rock-weed from the sea shore in the town of Rye, p. 401.

AN ACT for the preservation of Bass in Piscataqua river, and repealing all laws heretofore made for that purpose, passed June 27, 1809.

This act was limited in its duration to five years, and has not been continued or revived.

AN ACT to prevent the destruction of Salmon, Shad and Alewives in Merrimac river, and for repealing all the laws heretofore made for that purpose, passed June 18, 1790.

AN ACT in addition to, and in amendment of an act, entitled, an act to prevent the destruction of Salmon, Shad and Alewives, in Merrimac river, and for repealing all the laws heretofore made for that purpose," passed January 12, 1795.

AN ACT in addition to an act, entitled, An act to prevent the destruction of Salmon, Shad and Alewives, in Merrimac river, and for repealing all the laws heretofore made for that purpose, passed December 20, 1797.

AN ACT giving Samuel Gibson, and others, leave to draw seines near Naticook brook, and to prevent in some degree the operation of an act, entitled, an act to prevent the destruction of Salmon, Shad and Alewives in Merrimac river, and for repealing all the laws heretofore made for that purpose, passed December 20, 1797," passed December 27, 1798.

The act described in the title of this act was passed June 18, 1790 : two additional acts were passed ; the first January 12, 1795 ; the second December 20, 1797.

AN ACT granting liberty to build dams across Winnipissiokee river, under certain limitations, passed December 9, 1800.

The five last mentioned acts were repealed with a saving of all actions, pending by act of June 20, 1811, which took effect January 1, 1812, p. 444.

AN ACT for the encouragement of sundry manufactures, passed December 22, 1803.

AN ACT to repeal an act made and passed the twenty-second day of December one thousand eight hundred and eight, entitled, "An act for the encouragement of sundry manufactures," passed June 22, 1814.

AN ACT directing the mode of balloting for and appointing Electors of this state for the election of a President and Vice-President of the United States, passed June 11, 1806.
[SPECIAL.]

The former acts on this subject were passed Nov. 12, 1788, June 20, 1792, June 16, 1796, June 14, 1800, and additional act Nov. 25, 1800, and June 21, 1804.

AN ACT directing the mode of balloting for and appointing Electors of this state for the election of a President and Vice-President of the United States, passed June 19, 1812.
[SPECIAL.]

AN ACT for the receiving into the treasury of this state, certain evidences of debts due from the state and making compensation for the same, passed June 21, 1794.
[SPECIAL.]

AN ACT to bar unliquidated claims against the state, which shall not be presented within a limited time, passed June 16, 1795.
[SPECIAL.]

AN ACT fixing the time when the interest on state Notes, Bills of the new emission and other evidences of debt shall cease.

This bill was not approved by the governor, but on reconsideration was repassed by the senate and house of representatives, according to the rules and limitations prescribed by the constitution, December 15, 1796.

[SPECIAL.]

Passed June 18, 1892. *AN ACT to prevent the circulation and currency of bank bills, of a denomination less than five dollars.*

Repealed by act 24 Dec. 1895. **SECT. 1.** *BE it enacted by the senate and house of representatives, in general court convened, That from and after the first day of December next, no person shall pay or*

receive, in discharge of any contract or bargain, or for any valuable consideration whatever, any bill issued by any bank, or any banking company, other than the bank of the United States, or the bank or banks within this state, of a less denomination than *five dollars*, under a penalty of four dollars, to be recovered, as well of the person so paying, as of the person so receiving, by action of debt, with costs of suit, to the use of any person or persons who shall, within one year thereafter, prosecute the same.

SECT. 2. *And be it further enacted*, That the secretary cause that this act be published, as soon as may be, in all the newspapers printed in this state, *six weeks*.

Approved June 18, 1802.

AN ACT to repeal an act made and passed June 18th, 1802, entitled, "An act to prevent the circulation and currency of Bank Bills of a denomination less than five dollars." Passed Dec. 24, 1805.

BE it enacted by the senate and house of representatives, in general court convened, That the aforesaid act, and every part thereof be, and the same hereby is repealed. Provided however, that nothing in this act contained, shall be construed to affect any action now pending to recover a penalty by virtue of the aforesaid act.

Approved December 24, 1805.

AN ACT making further provision for the administration of Justice. Passed Feb 12, 1794.

WHEREAS petitions are often preferred to the general court, praying for restoration to a course of law; which mode of relief is not only burthensome to the legislature and to the state, but also extremely expensive to individuals, who often live at a great distance from the place of holding said court; For remedy whereof,

SECT. 1. *Be it enacted by the senate and house of representatives in general court convened*, That the justices of the superior court of judicature, be, and they hereby are vested with the power of hearing and deciding, and granting one review or new trial after judgment, that hereafter may be rendered in the said superior court, or in the court of common pleas, or general sessions of the peace in the following cases, to wit, upon verdict of jury, default, nonsuit, discontinuance, report of referees or demurrer, and upon the discovery of new evidence, and where an action by accident or misfortune hereafter may fail to be prosecuted to final

judgment, to the delay of justice, if it shall appear to them that the justice the law intended hath not been attained, and that a further hearing of the cause would, all circumstances considered, be just and equitable: and like remedy shall be granted to any person materially interested who hath not been a party to the suit on which such judgment may be rendered; and process on said review or new trial shall be by writ of review as in other cases; provided application, by petition in writing setting forth the reasons for said review or new trial, be made to said superior court, of which application due notice shall be given to the adverse party, if living within this state, otherwise to his agent or attorney who appeared for him in the cause, and all proceedings by virtue of this act, shall be under such rules and regulations, not inconsistent with the fundamental rules and principles of law, as to the said justices may seem reasonable and best calculated for the attaining complete justice.

SECT. 2. *And be it further enacted*, That all applications, new trials and other proceedings to be had by virtue of this act, shall be in the respective county where the original cause was tried, and costs shall be allowed and taxed in favour of the prevailing party on the petition as well as on the trial of the cause so reviewed agreeably to the table of fees.—This act to be in force for the term of five years from the passing hereof and no longer.

Approved February 12, 1794.



Passed Dec. 4, 1798. *AN ACT to make perpetual, "An act making further provision for the administration of Justice," passed February 12, 1794.*

WHEREAS in and by said act it is provided, that the same be in force for the term of five years from the passing thereof, and no longer; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That said act and every clause thereof, be, and continue to be in force, in the same way and manner, as if no limitation in and by said act had been made.

Approved December 4, 1798.



Passed Dec. 11, 1804. *AN ACT making further provision for the administration of justice.*

WHEREAS petitions are often preferred to the general court praying for restoration to a course of law, which mode of relief is not only burthensome to the Legislature and to the state, but also extremely expensive to individuals, who of-

ten live at a great distance from the place of holding said court; For remedy whereof,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That the justices of the superior court of judicature be, and they are hereby vested with the power of hearing and deciding and granting one review or new trial after judgment that may hereafter be rendered in the said superior court, or in the court of common pleas, or before any justice of the peace, in the following cases, to wit, upon verdict of jury, default, nonsuit, discontinuance, report of referees, or demurrer, and upon the discovery of new evidence, and where an action by accident or misfortune, hereafter may fail to be prosecuted to final judgment to the delay of justice, if it shall appear to them that the justice the law intended hath not been attained, and that a further hearing of the cause would, all circumstances considered, be just and equitable, and like remedy shall be granted to any person materially interested, who hath not been a party to the suit on which such judgment may be rendered, and process on said review or new trial shall be by writ of review as in other cases, provided application by petition in writing, setting forth the reasons for said review or new trial, be made to said superior court, of which application due notice shall be given to the adverse party, if living within this state, otherwise to his agent or attorney who appeared for him in the cause, and all proceedings by virtue of this act shall be under such rules and regulations, not inconsistent with the fundamental rules and principles of law, as to the said justices may seem reasonable, and best calculated for the attaining complete justice.

SECT. 2. *And be it further enacted,* That all applications, new trials and other proceedings to be had by virtue of this act, shall be in the county where the original cause was tried, and costs shall be allowed and taxed in favour of the prevailing party, on the petition as well as on the trial of the cause so reviewed agreeably to the table of fees.

SECT. 3. *And be it further enacted,* That actions tried in the superior court of judicature, when the cause originated before a justice of the peace, may be reviewed in the same manner as actions originating in the court of common pleas may be reviewed.

SECT. 4. *And be it further enacted,* That an act entitled an act making further provision for the administration of justice, made and passed the twelfth day of February, A. D. 1794, and also an act entitled an act to make perpetual an act making further provision for the administration of justice, made and passed the fourth day of December, A. D. 1798, be, and they hereby are respectively repealed.

Approved December 11, 1804.

Repealed by act with similar title, passed December 22, 1808, p. 82

Passed Feb-
ruary 21,
1794.

AN ACT to enlarge the civil jurisdiction of justices of the peace within this state, and directing constables, in certain cases to serve writs and other legal precepts.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That instead of the powers of justices of the peace being limited to forty shillings as by the present laws, the said justices shall hereafter have jurisdiction of all causes, of the same nature, not exceeding four pounds. And all appeals from judgments of justices of the peace, when more than forty shillings debt or damages shall be recovered or demanded, shall be to the superior court of judicature in the same way and manner as appeals are now by law allowed, and had from judgments of justices of the peace to courts of common pleas; excepting that the appellant shall at the time of claiming his appeal, enter into recognizance with sufficient sureties, to enter his appeal at the court appealed to, and prosecute the same with effect.

SECT. 2. *And be it further enacted,* That all writs issuing from justices of the peace, shall, wherein the sum demanded exceed forty shillings, be served fourteen days before the time of trial, and before they are served be endorsed by the plaintiff or his attorney, and the endorser shall in case the defendant recover cost, be holden and liable for said cost in the same way and manner as endorsers of writs returnable to the courts of common pleas by law now are. And any justices of the peace, may, upon application, issue scire facias in due form of law against such endorser for said cost.

SECT. 3. *And be it further enacted,* That any constable to whom any writ or other legal precept issuing from a justice of the peace may be directed, be, and hereby is fully empowered and directed to serve and return the same according to law.

SECT. 4. *And be it further enacted,* That the same mode, with respect to bail on mesne process, and taking bond upon execution for the liberty of the prison yard, shall be observed upon writs and executions issuing from justices of the peace, as the laws now in force point out with respect to bail on mesne process returnable to, and taking bond upon execution issuing from the courts of common pleas; any law, usage or custom to the contrary notwithstanding.— This act to continue and be in force three years from the passing hereof, and to the end of the then next session of the general court and no longer.

Approved February 21, 1794.

AN ACT in addition to, and also to make perpetual, an act to enlarge the civil jurisdiction of justices of the peace within this state, and directing constables in certain cases to serve writs and other lawful precepts, passed February 21st, A. D. 1794.* Passed Dec. 13, 1796

WHEREAS in and by said act it is provided, that the same should continue and be in force three years from the passing thereof, and to the end of the next session of the general court, and no longer ; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That said act and every clause thereof continue to be in force in the same way and manner as if no limitation had been made.

SECT. 2. *And be it further enacted,* That no action shall be commenced at any court of common pleas in this state, except where title of real estate is in question, wherein the sum demanded shall not exceed the sum of thirteen dollars and thirty three cents, any law, usage or custom to the contrary notwithstanding. *Approved December 13, 1796.*

* Legal in the act referred to.

AN ACT to make special pleading in causes triable before justices of the peace unnecessary. Passed June 20, 1797.

BE it enacted by the senate and house of representatives, in general court convened, That the defendant in any cause, triable before a justice of the peace, may give any special matter in evidence, under the general issue ; any usage or custom to the contrary notwithstanding.

Approved June 20, 1797.

The three foregoing acts were repealed by act of June 22, 1810, which took effect January 1, 1811, p. 65.

AN ACT authorizing two Justices of the Peace, of the Quorum, to administer the oath or affirmation to persons imprisoned for debt, and to approve of bonds by them given. Passed June 24, 1813.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, any two justices of the peace, of the quorum, within and for the county in which they reside, shall hereby have power, and be fully authorized, in the same way and manner as the justices of the supreme judicial court, or justices of the circuit courts of common pleas, with a justice of the quorum, now are, to administer the oath or affirmation to any person imprisoned for debt, at any of the gaols within this state.

APPENDIX.

SECT. 2. *And be it further enacted,* That if the surety or sureties of any bond given by any prisoner committed for debt, agreeably to the laws of this state, be not approved by the creditor, his agent, or attorney, who prosecutes or who prosecuted the suit, any two justices of the peace, of the quorum, within and for the county where such prisoner shall be so committed, may approve the same, in the same way and manner as the justices of the supreme judicial court, or justices of the circuit courts of common pleas, with a justice of the peace, are now by law authorized to do.

Approved June 24, 1813.

Repealed by act with similar title, passed June 23, 1814. p. 159.

AN ACT to determine who shall be legal voters in Town Meetings, and to secure to the Inhabitants of this state their Rights of Suffrage, passed December 21, 1808.

AN ACT to repeal an act made and passed on the twenty first day of December, one thousand eight hundred and eight, entitled, "An act to determine who shall be legal Voters in Town Meetings, and to secure to the Inhabitants of this state their rights of suffrage," passed June 28, 1809.

It is not thought necessary to reprint at length the above act of Dec. 21, 1808, as it remained so short a time in operation.

ACTS relative to assessing and collecting publick Taxes.

ALL the acts relative to making rates and taxes (at least those anterior to 7 February, 1789,) are it is supposed repealed by act of 20th June, 1792, which took effect 15th September, 1792. Many of them were repealed before.

By the act of 10th December, 1796, for taxing the lands and buildings of nonresidents, p. 268, it is enacted "that such parts of all acts heretofore passed as relate to assessments made by any town or place on the unimproved land of nonresidents for the payment of state and county taxes, be, and they hereby are repealed." As this latter act prescribes a new mode of collecting such taxes, it was doubtless the intention to repeal all former laws relative to collecting as well as assessing taxes on the unimproved lands and buildings of non residents.

The acts relative to this subject now in force, are printed in the body of the work.

AN ACT to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs. Passed July 2, 1776.

WHEREAS it is necessary there should be an equitable rule established by law for making rates and taxes within this colony, so that every person may be compelled to pay in proportion to his income; and also for ascertaining who are legal voters in town and parish meetings.

SECT. 1. *Be it therefore enacted by the council and house of representatives, in general court assembled,* That henceforward all publick rates and taxes shall be made and assessed in proportion to the amount of each person's poll, rateable estate and faculty, which shall be estimated as follows, viz. All male polls from eighteen years old and upwards, shall be estimated at twelve shillings each; all male slaves from sixteen to forty-five years old, at ten shillings each; all female slaves from sixteen years old to forty-five, five shillings each; horses and oxen four years old and upwards, three shillings each; cows four years old and upwards, two shillings each; cattle and horses three years old, one shilling and six pence each; cattle and horses two years old, one shilling each; cattle and horses one year old, six pence each; (no cattle or horses to be accounted one year old until they have been wintered two winters.) All improved lands to be estimated as follows, viz. : orchards, one shilling and six pence per acre, accounting so much for an acre as will produce ten barrels of cider or perry;—arable land one shilling per acre, accounting so much land as will generally produce twenty-five bushels of grain per year to be one acre;—mowing land at one shilling per acre, accounting so much land for one acre as will produce one year with another one ton of hay;—pasture land at five pence per acre, accounting so much land as will summer a cow to be four acres: All mills, wharves and ferries shall be estimated at one twelfth part of their neat yearly income;—all stock, whether it be money in hand, or at interest, more than the owner gives interest for, and all money improved in trade, shall be estimated at the half of one per cent. And any person's faculty may be estimated by the selectmen and assessors of each town and parish within this colony at their discretion, not exceeding ten pounds rateable estate; saving a right of appeal to any person grieved by such estimation. And no colony, town or parish tax shall be held legal but such as shall be made according to the foregoing proportion: excepting and reserving to every town or parish in this colony the liberty at their annual meetings to rate all houses, ware-house, and other buildings at discretion, so as that they are not estimated at more than the twelfth part of their neat yearly income.

And the selectmen of each town and parish within this colony, in the month of April, annually, shall take an invoice of each person's poll and estate in manner aforementioned. And in case any person shall remove to another town or parish after the invoice is taken, he shall pay his tax for that year where his invoice was first taken: and if any person or persons not belonging to this colony, shall come to reside or inhabit in any town or parish within the same for the benefit of trading, although for a less time than one year, such person or persons shall, and may be assessed one year's rate for his or their polls, and such stock as he or they may bring or have in trade at the time of making his or their rates, whether on their own account or on commissions.

And every person having eighteen shillings rateable estate, including his poll, and every freeholder, shall be deemed a legal voter in all affairs of the town or parish where he dwells.

And if any person or persons, in any of the towns or parishes in this colony, shall refuse to render an account on oath (if required, which oath any selectman may administer) of his or their rateable estate, the selectmen, or the major part of them, may set down to such person or persons as much as they shall judge equitable by way of doomage, and make their rates or taxes accordingly; from which doomage there shall be no appeal unless such person or persons are unable to exhibit such account and are ready to make oath that is really the case.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That the inhabitants of Portsmouth in this colony, shall exhibit to the selectmen thereof annually at such time and place as they shall appoint within the term aforesaid, each one a just and true account of his poll and rateable estate according to this act. And the several parishes in the said town of Portsmouth shall have liberty at their parish meetings to raise their ministerial and parochial taxes in any manner they shall judge proper: and the selectmen and church wardens of the several towns and parishes within this colony, shall have liberty to make such abatements of any person's rates as shall or may appear to them to be equitable and just.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That the selectmen of the several towns and parishes in this colony, in taking their respective invoices of polls and estates for the current year shall take them according to what rateable estate the respective rateable inhabitants were possessed of in the month of April last past: and in future shall take the said invoices according to what rateable estate the said inhabitants shall have or be possessed of on the first day of April annually.

Passed July 2, 1776.

AN ACT for raising the sum of forty thousand pounds for the use and purposes therein declared, passed November 27, 1777. Passed Nov. 27, 1777.

[SPECIAL.]

AN ACT for making and establishing a new proportion of the state tax among the several towns and parishes within this state; and to authorize the treasurer to issue his warrants for the levying the same annually. Passed Nov. 27, 1777.

[SPECIAL.]

AND whereas the several towns of Tuftonborough, Shelburne, Cockburne, Protectworth, Dartmouth, and Morristown, which are mentioned in the foregoing proportion, are not inhabited, or have so few inhabitants as that they are incapable of choosing the officers aforesaid, assessing and collecting the state tax :

SECT. 4. *Therefore be it enacted by the authority aforesaid, That the treasurer for the time being, shall at the time of issuing his warrants annually for the state tax, give publick notice in the New-Hampshire Gazette, and in some one of the Boston news-papers, of the sums proportioned to, and to be paid by the owners (collectively) of the lands in the said towns, requiring them to pay the same into the treasury by the same time that other towns are required to pay their said tax, and that if they neglect to pay the same, so much of their lands will be sold by order of the general court, as will pay said tax with incidental charges.*

Passed November 27, 1777.

AN ACT in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs, passed the second day of July, one thousand seven hundred and seventy-six. Passed Nov. 29, 1777.

WHEREAS the council and assembly of said state, in their present session have made a new proportion for a rule in paying the state tax among the several towns, parishes and places in said state, and in addition to the several rateable articles named in the aforesaid act, have taken in the sum total of all real estate, not included in any of the said articles, viz. Lands and buildings not included as aforesaid ;

and it appearing reasonable that each town, parish or place, who has been proportioned to the state tax for said last article should be enabled to assess and collect the same from the owners of such lands and buildings in their respective towns ; Therefore,

SECT. 1. *Be it enacted by the council and house of representatives, in general court assembled, and by the authority of the same,* That the sum total of the value of all real estate not included before as aforesaid, shall be estimated at half of one per cent. in the same manner as money or stock in trade.

And whereas great part of said lands may be owned by persons unknown, or not inhabiting the towns where the lands lie, and have no personal estate therein, whereon distraint for the said tax can be made, and that the payment thereof may be enforced in as equitable a manner as possible :

SECT. 2. *Be it enacted by the authority aforesaid,* That in all towns, parishes and places, where the owners of any such lands are not resident therein, and are known, they shall be rated in proportion to their interest by the rule aforesaid. And in case the owners are unknown, then the same lands shall be rated in the name of the original proprietor, and each lot belonging to such proprietor's share shall be set down separately in the list of rates, and when the assessment is made and delivered to the constable or collector, he shall cause an advertisement to be published in the New-Hampshire Gazette three weeks successively, with a list of the names of all non-residents, taxed as aforesaid, and the respective sums they are assessed, requiring them to pay the same to him within eight weeks from the date of said advertisement, or their lands will be sold for payment of the same ; and the said constables or collectors at the end of said eight weeks is hereby empowered to advertise as aforesaid the lands of all such delinquents for sale, giving notice of the time and place of said sale, and in case the said tax, with incidental charges, is not paid before the time appointed for said sale, the constable or collector shall proceed and sell by publick auction as much of said lands or each of said lots as will pay the tax laid thereon, with the incidental charges, and to execute a good deed thereof to the purchaser or purchasers, saving the rights of all persons actually engaged in the war, in the service of this continent, or in captivity, being out of said state, so far as to allow them, their heirs or assigns, three months after the impediment shall be removed for their paying the sum as aforesaid, with interest to redeem the same.

Passed November 29, 1777.

AN ACT for raising the sum of Eighty Thousand Pounds lawful money, for the ends and uses herein after mentioned, and to enable the treasurer and receiver-general to issue his warrants for collecting and calling in the same. Passed March 9, 1778.
[SPECIAL.]

AND whereas many inconveniencies may arise by collecting the taxes hereby laid on the lands within this state, which are owned by non-residents, so that their proportion of the first sum of forty thousand pounds herein mentioned, may be called in at the time set therefor :

SECT. 2. *Be it therefore further enacted,* That the several constables and collectors within this state, be, and they are hereby directed not to distrain for the whole or any part of the proportion of taxes hereby laid on the lands of said non-residents, at any time before the said last day of June, but afterwards to collect the whole thereof in such manner as to be paid into the treasury on or before the last day of December next. *Passed March 9, 1778.*

AN ACT altering the mode of collecting Taxes prescribed in an act, entitled, an act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town affairs, passed the second day of July, one thousand seven hundred and seventy seven. Passed May 23, 1778.

WHEREAS in and by said act, the non-resident proprietors of lands in the several towns within this state, are required to pay their several taxes to the constable or collector of the town where such lands lie, which has occasioned them vast trouble and expense in finding out the persons to whom to pay said taxes, and in transmitting the same to them where found, with the exorbitant charges which such constable or collector has been wont to add thereto :

Be it enacted by the council and house of representatives, for the state aforesaid, in general court assembled, That from and after the tenth day of June, Anno Domini, one thousand seven hundred and seventy-eight, some one person residing at Exeter, in said state, be appointed and authorized by the general court or the committee of safety, in the recess of the general court, to receive all the taxes of such non-resident proprietors of lands within the state. And the constable or collector of the several towns within the same, is hereby required immediately for this year, and hereafter, as soon as the list is received, to send into the said person at Exeter, a list of the names of such non-resident proprietors, if known, (if not, the name of the original proprietors) with the sums each is respectively assessed at, the state and other legal taxes in separate columns, attested by the respective selectmen or assessors of the said town. And the said

person so appointed, is directed immediately to advertise the said list in one of the New-Hampshire Gazettes three weeks successively, requiring each proprietor to pay said tax and charges to the said person so appointed, or to the constable or collector of such town, within eight weeks, or so much of his lands will be notified for sale as will pay the same; at the end of the said eight weeks, the person so appointed shall make return of said list so received, specifying who had paid his tax, and who had not, and at the same time he shall forward the money so received by him for said taxes (excepting the state tax which he himself is immediately to pay to the treasurer of said state, in behalf of the town, for the use of said state,)—after which the said constable or collector shall publickly advertise for sale so much of the lands of the delinquent proprietors as will pay said tax and charges, and shall also notify the same in some publick place in the town where such lands lie, and the two adjacent towns, both the advertisement and notification to be three weeks successively. After which, if the same is not paid, said lands shall be sold for the most they will fetch, out of which sum said tax and charges shall be deducted, and the overplus (if any) paid to such delinquent, if demanded; such constable or collector to make valid deeds thereof, agreeably to the former act. And all and every such non-resident proprietor of lands lying within the state aforesaid, may, at his option within said eight weeks, pay the taxes aforesaid, either to such person so appointed, or to the respective collector or constable of the town where the lands lie; and the said person so appointed, is hereby authorized to receive of such persons five per cent. for his trouble in collecting the taxes aforesaid, and be also paid all the necessary charges of advertising.

Provided always, nevertheless, That nothing in this act shall be construed to take away any right that persons in the army, or in captivity, may have of redeeming his lands (if sold) within the time limited in said act.

Passed May 23, 1778.

Passed Dec.
26, 1778.

AN ACT in amendment of, and addition to an act, entitled, an act altering the mode of collecting taxes prescribed in an act entitled an act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town affairs.

WHEREAS by the aforesaid act it is ordained, that some one person residing in Exeter, should be appointed to receive the taxes of all non-resident proprietors of lands in said state, which person should publish a list of the names of such non-resident proprietors with the sums each is respectively assessed, and requiring them to pay said tax to

nim ; which manner of publishing is attended with inconvenience, expense and delay :

And whereas the method of advertising the lands of non-resident proprietors for sale, for the payment of said taxes as prescribed in said act is indeterminate :

And whereas constables and collectors have thought themselves authorized by the said act to sell the whole of the lands of delinquent proprietors, from which great iniquity may ensue :

And whereas in the said act there is no provision for the privilege of redeeming any lands which shall be sold for the payment of taxes, but the lands of persons in the army and in captivity ; and some further provision in that respect is deemed necessary :

SECT. 1. *Be it therefore enacted by the council and house of representatives, in general assembly convened, and by the authority of the same,* That the person in Exeter appointed, or to be hereafter appointed to receive the said taxes, shall, in the New-Hampshire Gazette, and in one of the Boston news papers three weeks successively, advertise in general, the owners and proprietors of each particular town, that their lands in such town are taxed, and that the taxes and charges must be paid to him, or to the collector for such town within eight weeks (from the first publication of such advertisement) or so much of their lands will be notified for sale as will pay and discharge the same.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That each constable or collector shall cause the advertisement for the sale of each delinquent owner and proprietor's lands, with the day, hour and place of sale, to be published in the town where the land lies, and in the two next adjacent towns, and also in the New-Hampshire Gazette, three weeks at least before the time of sale. And that no more of such lands shall be sold than will be sufficient for the payment of said taxes with the incidental charges.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That from and after the passing of this act, in the sale of lands as aforesaid, belonging to any person or persons who have left this state, or either of the United States, and joined the enemy ; or who are inhabitants of Great-Britain, whose estates are or shall be confiscated ; the privilege of redeeming the said lands, shall be reserved and saved to this state, for the term of twelve months after the confiscation of said estates respectively.*

Passed December 26, 1773.

* The act of the 16 March, 1780, repealed the act to which this is an addition, and also contained the several provisions of this act, except what relates to the hour of the sale ; but it does not expressly repeal this act.

Passed March 20, 1779. *AN ACT for raising the sum of Two Hundred and Fifty Thousand Pounds, lawful money, for the ends and uses hereinafter mentioned; and to enable the receiver-general to issue his warrants for collecting the same.**
[SPECIAL.]

* The taxes on the lands of non-resident proprietors to be made in a single column, and the collectors not to distrain for the same till the first day of June next.

Passed June 23, 1779. *AN ACT to ascertain the proportion of the Publick Taxes upon sundry towns, and to enable them to collect the same.*

WHEREAS it appears by representations made to the general court, by agents from the towns of Bath, Canaan, Warren and Wentworth, that said towns are over-rated in the proportion of the state tax. And whereas the state and continental taxes laid upon those towns for the years 1777, 1778 and 1779, by means of the unsettled state of the county of Grafton, and the want of town officers in some of said towns, have not been assessed.

SECT. 1. *Be it therefore enacted by the council and house of representatives,* That the treasurer shall forthwith issue his warrants to each of said towns, for the whole of their respective shares of the state and continental taxes for said three years, instead of the taxes heretofore demanded of them, after the rate of twenty shillings from each of said three towns last mentioned, and forty shillings for Bath, for every thousand pounds, of the state and continental tax, raised in this state in the said three years. All which shall be assessed according to each person's rateable estate on the first day of April last; and paid into the treasury by the last day of December next: and the same proportion shall be kept upon each and every of said towns, until a new proportion is made of the state tax.

SECT. 2. *And be it further enacted,* That Samuel Emerson, Esq., be, and hereby is directed to notify meetings of said towns of Warren and Wentworth, giving fourteen days notice, to choose their town officers, and to govern said meetings until moderators are chosen.

Passed June 23, 1779.

Passed June 26, 1779. *AN ACT for raising the sum of Four Hundred and Fifty Thousand Pounds, lawful money, for the use of the United States of America, in pursuance of a requisition of congress.* [SPECIAL.]

Passed June 27, 1780. *AN ACT for raising Eleven Thousand and Two Hundred weight of Beef within this state, for the use of the Continental Army.* [SPECIAL.]

AN ACT for making and establishing a new proportion of the publick Taxes, among the several towns, parishes, and places within this state; and to authorize the treasurer to issue his warrants for the levying the same annually. Passed March 15, 1780.

[SPECIAL.]

AND whereas the several towns and places hereafter mentioned, viz. Tuftonborough, Shelburne, Cockburne, Protect-worth, Dartmouth, Morristown, Coleburn, New-Bradford, and the tract of land adjoining to the easterly side of Haverhill, and northerly side of Warren, which are mentioned in the foregoing proportion, are not inhabited, or have so few inhabitants as that they are incapable of choosing the officers as aforesaid, for assessing and collecting the said taxes.

SECT. 4. *Be it therefore enacted, by the authority aforesaid, That the treasurer for said state, for the time being, shall, at the time of issuing his warrants annually for the publick taxes, give publick notice in the New-Hampshire Gazette, and in some one of the Boston news papers, of the sum proportioned to, and to be paid by the owners (collectively) of the lands in said towns and places, requiring that the same be paid into the treasury by the same time that other towns are to pay their said taxes, and that if the same is not paid accordingly, so much of their lands will be sold, as will pay said tax with incidental charges. And if it is not paid by the time prescribed, the treasurer shall make sale of so much of said land at publick vendue, as will pay the said tax with incidental charges, first advertising the time and place of sale, in the news papers aforesaid, three weeks successively.* Passed March 15, 1780.

*AN ACT for raising the sum of Two Millions One Hundred and Sixty Thousand Pounds, lawful money, for the ends and uses herein after mentioned, and to enable the receiver-general to issue his warrants for collecting the same.** Passed March 15, 1780.

[SPECIAL.]

* The former part of the act provides that one half the above sum is for the use of the United States, and the other half for the use of this state—one third to be collected and paid on or before June 1, one sixth August 1, one third October 1, and one sixth December 15, all in the same year: the whole to be paid in bills emitted by congress or this state, or notes emitted by the treasurer for paying soldiers' bounties.

The tax to be made in separate columns for each payment.

The selectmen to govern themselves by the inventories taken in December 1779, with respect to all unimproved lands and buildings, and lands of non-residents—adding or deducting for any doomage, or deduction made by the general assembly on such articles.

Provided also, That the taxes of the lands of non-resident proprietors, (being unimproved) shall be made in a single column, and that the collectors shall not distrain for the same till after the said first day of October next. And that the said lands of non-resident proprietors unimproved, shall not be taxed to any other taxes but the continental tax, state tax, war tax, and county tax.

Passed March 15, 1780.

Passed March 16, 1780. *AN ACT for repealing two certain acts of this state, viz. one passed November the twenty-ninth, one thousand seven hundred and seventy-seven, entitled, "An act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs," passed the second day of July, one thousand seven hundred and seventy-six: and an act passed May the twenty-third, one thousand seven hundred and seventy-eight, entitled, "An act, altering the mode of collecting taxes prescribed in an act, entitled, "an act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town affairs," passed the second day of July, one thousand seven hundred and seventy-six; and also for altering and amending the said act, entitled, "An act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs."*

WHEREAS the two additional acts before mentioned, have proved by experience, not to have answered the good and valuable purposes for which they were made, which makes the repealing said acts, and some other provision for the purpose therein intended, necessary.

SECT. 1. *Be it therefore enacted by the council and house of representatives, in general court assembled, and by the authority of the same, That the said two additional acts be, and hereby are repealed.*

Provided, nevertheless, That all taxes legally assessed, by virtue of the aforementioned acts, shall and may be collected as therein prescribed, the repeal notwithstanding.

SECT. 2. *And be it further enacted, by the authority aforesaid, That all buildings and unimproved lands, owned by residents in this state, shall be estimated at the rate of half of one per cent. on their value, as money was in the year one thousand seven hundred and seventy-four, agreeable to the returns made to the general court, in January one thousand seven hundred and eighty; respect being had to*

the doomage and deductions then made by said court, and until a new proportion shall be made, and shall accordingly be assessed to all publick taxes, to which improved lands are subjected in their respective towns.

And whereas it is just and necessary, that publick taxes should be duly proportioned, and that all unimproved lands, laying in the several towns and places, within this state, should be subjected to bear a part of said expense, adequate to their value :

SECT. 3. *Be it therefore hereby further enacted, by the authority aforesaid, That it may, and shall be lawful for the selectmen of the several towns and places, within this state, to assess all unimproved lands, owned by non-residents in their respective towns and places, their just proportion of the taxes and charges following, viz. the continental, state and county taxes, and the charges of hiring soldiers to enlist in the service of this state, or of the United States : and also for defraying the expense of supporting the wives* and families of the non-commissioned officers and soldiers belonging to this state, as is directed, in and by a resolve of the general court ; which assessment shall be made by the said selectmen annually, at the times of assessing the polls and estates of the inhabitants of their respective towns and places, estimating the said lands in the same manner as is directed for buildings, and unimproved lands, owned by the residents, in this act.*

And whereas the mode of collecting the taxes, so assessed, on the lands of non-residents, should be made as plain, and as little expensive as possible :

SECT. 4. *Be it therefore enacted, by the authority aforesaid, That in all towns and places where the owners of any such lands are not resident therein, and are known, they shall be assessed for the taxes aforesaid in proportion to their interest. And in case the owners of such lands are unknown, then the same lands shall be assessed in the name of the original proprietor or owner thereof ; and each lot and undivided land, belonging to such proprietor's or owner's share, shall be set down separately in the list of rates and taxes.—And the said assessment being made as aforesaid, and the same being delivered to the constable or collector of the town or place wherein the same lands lie, the said constable or collector shall forthwith forward to some one person residing in Exeter, to be appointed by the general court, for the purpose of receiving the same, a copy attested by the assessors or selectmen of the list of taxes, laid on the unimproved lands of non-residents within his town or place, viz. the owner's name where known, and where unknown, the name of the original proprietor or owner, together with the number of the lots, quantity of land, and the several sums at which the said lands shall be assessed, viz. the continental, state, war,*

* *Wives* in the original

and county taxes, in separate columns. And the said person so appointed at Exeter aforesaid, shall immediately publish a notification, three weeks successively in the New-Hampshire Gazette, and also in one of the Boston news papers, thereby informing all persons concerned, that he has received said list, and requiring each owner or proprietor to pay his tax to him, or to the constable or collector of the town or place wherein the lands lie, within eight weeks; notifying also that in default thereof, so much of the lands of each delinquent proprietor or owner, will, at the end of the said eight weeks, be advertised for sale, as will pay said taxes and all legal charges; and the said person so appointed at Exeter aforesaid, is hereby authorized to receive the same, and the sum of five per cent. for his trouble, for all sums by him so collected; and at the expiration of said eight weeks, he shall, as soon as may be, return said list to the constable or collector from whom he received it, specifying who have paid their taxes, and who are delinquent; and at the same time forward to said constable or collector the money he hath collected belonging to said town or place for the war, and county taxes, and the residue thereof pay to the treasurer of this state, for the use thereof, taking the treasurer's receipt therefor in behalf of the said town or place. After which, the said constable or collector shall advertise so much of the delinquent proprietors or owners land for sale, as will pay said taxes with incidental charges, giving three weeks notice of such sale at least, by publishing the same in the New-Hampshire Gazette aforesaid; and also by posting the same up, for the term aforesaid, in some publick place in the town or place wherein the lands advertised for sale lie, and in the two adjacent towns. And in case the said delinquent proprietor or owner shall neglect to pay the aforesaid taxes, laid on his, or their lands, with the incidental charges, to the said constable or collector before the sale, then the said constable or collector shall, on the day appointed, proceed to make sale at publick auction, of so much of the delinquents lands as will pay said taxes, and the reasonable incidental charges; provided the said sale be made between the hours of ten of the clock in the forenoon, and six of the clock in the afternoon. And the said constable or collector is hereby authorized to execute a valid conveyance thereof to the purchaser.

SECT. 5. *Provided, nevertheless, and be it further enacted,* That each non-resident aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his lands sold as aforesaid, at any time, within the term of two months after the sale thereof as aforesaid, paying to the purchaser a sum amounting to the real value, for which the same was sold, the interest therefor until the time of payment, and all reasonable charges. And that all persons actually engaged in the war in the service of the United States of America, or

in captivity, being out of the state, their heirs or assigns, shall have the like liberty of redeeming any of their lands sold as aforesaid, at any time within the term of six months, after the said impediment shall be removed, they paying the sum, interest and charges aforesaid.

And whereas it often happens that more than one person is interested in a right or proprietors share of land, or some one lot, part of such share held in common and undivided, and one or more being owner or owners in such land, shall pay his, or her, or their proportion of taxes (according to their interest,) and some other owner or owners in the same lands being delinquent in paying their proportion of such taxes, shall occasion some part of such lands to be sold for the unpaid taxes.

SECT. 6. *Wherefore be it enacted*, That all lands sold in such cases, shall be deemed, judged and taken, as part of the interest or share of the delinquents, according to the quantity and quality of the whole.

SECT. 7. *And be it further enacted, by the authority aforesaid*, That all appropriated tracts of land, either towns or locations, lying within this state, not mentioned in the proportion act, shall be taxed for this present year, at the rate of one shilling and six pence per acre, being an averaged proportion to all other unimproved lands, taxed within this state, (said lands being subjected to the continental and state taxes only,) and the treasurer for said state, for the time being, shall, at the time of issuing his warrant annually, for the publick taxes, give publick notice in the New-Hampshire Gazette, and in some one of the Boston news papers, of the tax laid on said lands (which shall be proportioned by the general court annually, as near as may be, to the sum ordered to be raised, agreeable to the supply bill for the then current year) requiring the owners of said lands to pay the same into the treasury of said state, at the same time, that other non-resident proprietors are ordered to pay their respective taxes, and if the same is not paid accordingly, so much of their lands will be sold, as will pay the said tax, with incidental charges. And if said tax shall not be paid by the time prescribed, the treasurer shall, and hereby is empowered to sell so much of said delinquents land, at publick vendue, as will pay the said tax with incidental charges; first advertising the time and place, in the news papers aforesaid, three weeks successively. And upon the sale of any such lands, to make a valid conveyance thereof to the purchaser, saving to the owner the right of redemption, as heretofore prescribed to other non-residents in this act.

And whereas it is become necessary, that some alterations and amendments should be made in the act before mentioned, entitled, "An act to establish an equitable method of "making rates and taxes, and determining who shall be legal "voters in town and parish affairs."

SECT. 8. *Be it therefore hereby further enacted, That all male polls in said act mentioned, shall be estimated at ten shillings each : stock in trade at six pence in every hundred pounds : monies in hand or at interest, not in the publick funds, at three pence in every hundred pounds : and that all monies at interest in the publick funds shall be free from taxation ; any thing in the act last mentioned to the contrary notwithstanding.*

Passed March 16, 1780.

This act is not signed by the President.

Passed August 31, 1781.

AN ACT for raising a Tax of one hundred thousand dollars in Bills of the new emission of this state, for the use of this state ; and also a Tax of five thousand dollars in specie, for the payment of the interest of the said one hundred thousand dollars.

[SPECIAL.]

Passed Jan. 16, 1782.

*AN ACT for raising one hundred and ten thousand pounds lawful money, for the ends and uses therein mentioned, and to enable the receiver-general, to issue his warrants for collecting the same.**

[SPECIAL.]

* This tax was payable in money, certificates, orders, &c. or in certain articles, such as rum, beef, &c. It was also provided that the taxes on the unimproved lands of non-residents should be made in a single column. And that the collectors should not distrain for the same till after the last day of September then next. And that the unimproved lands of non-residents, should not be taxed for any other taxes except the state, war and county.

Passed March 1, 1783.

AN ACT for raising fifty five thousand pounds, lawful money, for the ends and purposes herein mentioned, and to enable the receiver-general to issue his warrants for collecting the same. [SPECIAL.]

Passed April 17, 1784.

AN ACT for making and establishing a new proportion of the publick Taxes, among the several towns, parishes and places within this state ; and to authorize the treasurer to issue his warrants for levying the same annually.

[SPECIAL.]

AND whereas the several towns and places hereafter mentioned, viz. Cambridge, Chatham, Cockburne, Colburn, Dummer, Errol, Milfield, Piercy, Peeling alias Fairfield, Shelburne, Stratford, Success, Trecothic, and Kilkenny, which are mentioned in the foregoing proportion, are not inhabited, or have so few inhabitants, as renders it incon-

venient, and in some cases impracticable to choose the officers aforesaid, for assessing and collecting the said taxes :

SECT. 4. *Be it therefore enacted, by the authority aforesaid, That the treasurer for said state, for the time being, shall, at the time of issuing his warrants annually for the said taxes, give publick notice in the New-Hampshire Gazette, and in some one of the Boston news papers, of the sum apportioned to, and to be paid by the owners (collectively) of the lands in said towns and places, requiring that the same be paid into the treasury, by the same time that other towns are to pay their said taxes ; and that if the same is not paid accordingly, so much of their lands will be sold as will pay said tax with incidental charges. And if said taxes are not paid by the time prescribed, the treasurer shall make sale of so much of said land at publick vendue, as will pay said tax with incidental charges ; first advertising the time and place of sale, in the news papers aforesaid, three weeks successively.* *Passed April 17, 1784.*

AN ACT for raising the sum of twenty-five thousand pounds, for the use of this state the present year. *Passed June 11, 1784*

[SPECIAL.]

AN ACT to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs ; and also for repealing certain acts herein after mentioned. *Passed June 12, 1784.*

WHEREAS it is necessary there should be an equitable rule established by law for making rates and taxes within this state, so that every person may be compelled to pay in proportion to his income, and also for ascertaining who shall be legal voters in town and parish meetings :

SECT. 1. *Be it therefore enacted by the senate and house of representatives, in general court convened, That henceforward all publick rates and taxes shall be made and assessed in proportion to the amount of each person's poll, rateable estate and faculty, which shall be as follows, viz. all male polls from eighteen years old and upward shall be estimated at ten shillings each ; all male slaves from eighteen years old to forty-five, ten shillings each ; all female slaves from sixteen years old to forty five, five shillings each. Horses and oxen four years old and upward, three shillings each ; cows four years old and upward, two shillings each ; cattle and horses two years old, one shilling each ; cattle and horses one year old, six pence each (no cattle or horses to be accounted one year old until they have been wintered two winters.) All improved lands to be estimated as follows, viz. orchard one shilling and six pence per acre, ac-*

counting so much for an acre as will produce ten barrels of cider or perry one year with another; arable land one shilling per acre, accounting so much land as will generally produce twenty-five bushels of Indian corn, or other grain equivalent per year, to be one acre; mowing land one shilling per acre, accounting so much land for one acre as will produce one year with another one ton of English hay, or other hay equivalent; pasture land at five pence per acre, accounting so much land as will summer a cow to be four acres; all mills, wharves and ferries shall be estimated at one twelfth part of their neat yearly income; and all other buildings and the unimproved lands owned by the inhabitants, and the buildings of non-residents to be taxed at the rate of half of one per cent. according to the real value thereof; all stock, whether it be money in hand or at interest more than the owner gives interest for (except what is due on publick securities) and all money improved in trade, shall be estimated at the rate of half one per cent.; and any person's faculty may be estimated by the selectmen and assessors of each town and parish within this state, or by either, where both are not chosen at their discretion, not exceeding ten pounds rateable estate; saving a right of appeal to the quarter sessions in all cases except the one herein after mentioned to any person grieved by such estimation; and no state, town or parish tax shall be held legal but such as shall be made according to the foregoing proportion.

Provided, nevertheless, This act shall not affect any parish taxes, where particular laws authorize a different mode for making them, nor shall it extend to, or affect any proprietary taxes.

And the selectmen of each town and parish within this state in the month of April annually, shall take an invoice of each person's poll and estate in manner aforementioned. And in case any person shall remove to any other town or parish after the invoice is taken, he shall pay his tax that year where his invoice was first taken.

And if any person or persons not belonging to this state shall come to reside or inhabit in any town or parish within the same, for the benefit of trading, altho' for a less time than one year, such person or persons shall and may be assessed one year's rate for his or their polls, and such stock as he or they may bring or have in trade at the time of making his or their rates, whether on their own account or on commissions.

Every male inhabitant of twenty one years old and upward, paying taxes, shall be deemed a legal voter in all affairs of the town or parish where he dwells.

And if any person or persons in any of the towns or parishes in this state, shall refuse to render an account on oath, (if required, which oath any selectman may administer) of his or their rateable estate, the selectmen, or the major part

of them, may set down to such person or persons as much as they shall judge equitable, by way of doomsage, and make their rates or taxes accordingly ; from which doomsage there shall be no appeal, unless such person or persons are unable to exhibit such account, and are ready to make oath that is really the case.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That the inhabitants of Portsmouth in this state shall exhibit to the selectmen thereof annually, at such time and place as they shall appoint, within the term aforesaid, each one a just and true account of his poll and rateable estate according to this act. And the several parishes in the said town of Portsmouth shall have liberty at their parish meetings to raise their ministerial and parochial taxes in any manner they shall judge proper ; and the selectmen and church wardens of the several towns and parishes within this state, shall have liberty to make abatements of any person's rates as shall, or may appear to them to be equitable and just.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That the selectmen of the several towns and parishes in this state, in taking their respective invoices of polls and estates for the current year, shall take them according to what rateable estate the respective rateable inhabitants were possessed of in the month of April last past ; and in future shall take the said invoices according to what rateable estate the said inhabitants shall have or be possessed of on the first day of April annually.

SECT. 4. *Be it further enacted, by the authority aforesaid,* That it may and shall be lawful for the selectmen or assessors of the several towns and places within this state, to assess all unimproved lands, owned by non-residents in their respective towns and places, their just proportion of the state and county taxes, which assessments shall be made by the said selectmen or assessors annually, at the times of assessing the polls and estates of the inhabitants of their respective towns and places, estimating the said lands in the same manner as is directed in this act for buildings, and unimproved lands, owned by the residents.

And whereas, the mode of collecting taxes, so assessed on the lands of non-residents, should be made as plain and as little expensive as possible :

SECT. 5. *Be it therefore enacted, by the authority aforesaid,* That in all towns and places where the owners of any such lands are not resident therein, and are known, they shall be assessed for the taxes aforesaid, in proportion to their interest. And in case the owners of such lands are unknown, then the same lands shall be assessed in the name of the original proprietor or owner thereof ; and each lot and undivided land belonging to such proprietors or owners share, shall be set

down separately in the list of rates and taxes; and the said assessment being made as aforesaid, and the same being delivered to the constable or collector of the town or place wherein the same lands lie; the said constable or collector, shall forthwith forward to some one person residing in Exeter, to be appointed by the general court, for the purpose of receiving the same, a copy attested by the selectmen, or assessors, of the list of taxes laid on the unimproved lands of (non-residents) within his town or place, viz. The owner's name if known, and if unknown, the name of the original proprietor or owner, together with the number of lots, quantity of land, and the several sums at which the said lands shall be assessed, viz. the state and county taxes, in separate columns; and the said person so appointed at Exeter, aforesaid, shall immediately advertise three weeks successively in the New-Hampshire Gazette, and also in one of the Boston news papers, thereby informing all persons concerned, that he has received said list, and requiring such owner or proprietor to pay his tax to him, or to the constable or collector of the town or place wherein the lands lie, within eight weeks; notifying also that in default thereof, so much of the lands of each delinquent proprietor or owner, will, at the end of said eight weeks, be advertised for sale, as will pay said taxes and all legal charges; and the said person so appointed at Exeter aforesaid, is hereby authorized to receive the same, and the sum of five per cent. for his trouble, for all sums by him so collected, and at the end of said eight weeks, he shall as soon as may be, return a copy of said list to the constable or collector, from whom he received it, retaining in his hands the copies so attested by the selectmen or assessors, specifying who have paid their taxes, and who are delinquent; and at the same time forward to the said constable or collector, the money he hath collected belonging to said town or place for the county taxes, and the residue thereof pay to the treasurer of this state, for the use thereof, taking the treasurer's receipt therefor, in behalf of said town or place, after which the said constable or collector shall advertise so much of the delinquent proprietor's or owner's land for sale as will pay said taxes, with necessary incidental charges, giving three weeks notice of such sale at least, by publishing the same in the New-Hampshire Gazette, and also by posting up a like advertisement for the term aforesaid, in some publick place in the town or place wherein the lands advertised for sale lie, and in the two adjacent towns. And in case the said delinquent proprietor or owner shall neglect to pay the aforesaid taxes laid on his, her, or their land, with the necessary incidental charges, to the said constable or collector before the sale, then the said constable or collector shall, on the day appointed, proceed to make sale at publick auction, of so much of the delinquent's land as will pay said taxes

with the necessary incidental charges ; provided the sale be made between the hours of ten of the clock in the forenoon, and six of the clock in the* afternoon. And the said constable or collector is hereby authorized to execute a valid conveyance of the land so sold to the purchaser.

SECT. 6. *Provided nevertheless, and be it further enacted,* That each non-resident aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his lands sold as aforesaid, at any time within the term of six months after the sale thereof, as aforesaid, paying or tendering to the purchaser, a sum amounting to the real value for which the land was sold, the interest therefor until the time of payment or tender as aforesaid, together with the cost of the deed or deeds, and recording, if any such deed be given and recorded. The mode for redeeming said lands shall be the same as the laws prescribe for the redemption of lands mortgaged.

And whereas, It often happens that more than one person is interested in a right, or proprietor's share of land or some one lot, part of such share held in common and undivided, and one or more being owner or owners in such land shall pay his, her or their proportion of taxes according to their interest, and some other owner or owners in the same lands being delinquent in paying their proportion of such taxes shall occasion some part of such lands to be sold for the unpaid taxes.

SECT. 7. *Therefore be it enacted,* That all lands sold in such cases shall be deemed, judged, and taken, as part of the interest or share of the delinquents, according to the quantity and quality of the whole.

SECT. 8. *And be it further enacted,* That all appropriated tracts of lands, either towns or locations lying within this state, not mentioned in the proportion act, shall be valued at the rate of one shilling and six pence rateable estate for each hundred acres, being an averaged proportion to all other unimproved lands taxed within this state (said lands being subjected to the state taxes only) and the treasurer for said state, for the time being, shall at the time of issuing his warrant annually for the publick taxes, give publick notice in the New-Hampshire Gazette, and in some one of the Boston news papers, of the tax on said lands, which shall be proportioned by the general court, as near as may be, to the sum ordered to be raised agreeably to the supply bill for the then current year, requiring the owners of said lands to pay the same into the treasury of said state at the same time that other non-resident proprietors are ordered to pay their respective taxes, and if the same are not paid accordingly, so much of their lands will be sold, as will pay said tax with necessary incidental charges ; and if said tax shall not be paid by the time prescribed, the treasurer shall, and

* The omitted in the original

hereby is empowered to sell so much of said delinquent's land, at publick vendue, as will pay the said tax with necessary incidental charges ; first advertising the time and place in the news papers aforesaid, three weeks successively ; and upon sale of any such lands, to make a valid conveyance thereof to the purchaser, saving to the owner the right of redemption as before mentioned.

And whereas the following acts have not answered the important ends for which they were designed ;

Therefore,

SECT. 9. *Be it enacted, by the authority aforesaid,* That the act, entitled, "An act to establish an equitable method of making rates and taxes, and determining who shall be voters in town and parish affairs," passed the 2d day of July, 1776. The act, entitled, "An act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs," passed 29th day of November, 1777. The act, entitled, "An act altering the mode of collecting taxes prescribed in an act, entitled, an act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs," passed 23d day of May, 1778 : Also, the act, entitled, "An act for repealing two certain acts of this state," viz. one passed November 29th, 1777, entitled, "An act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs," passed the second day of July, 1776, and an act passed May the 23d, 1778, entitled, "An act altering the mode of collecting taxes prescribed in an act, entitled, an act in addition to an act, entitled, an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town affairs, passed the 2d day of July, 1776," and also for altering and amending the said act, entitled, "An act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in the town and parish affairs :" *Be, and hereby are repealed : Provided, nevertheless,* That all inventories, taken for the present year shall be good, as well as all taxes made by virtue of, and pursuant to said acts, shall remain valid, and may be levied and collected in the same manner as though said acts had not been repealed.

Passed June 12, 1784.

AN ACT in addition to an act, entitled, "*an act for making and establishing a new proportion of the Publick Taxes among the several towns, parishes and places within this state, and to authorize the Treasurer to issue his warrants for levying the same annually*", passed April the seventeenth, one thousand seven hundred and eighty-four. Passed Nov. 9, 1784.

[SPECIAL.]

This additional act merely lengthens out the time for calling meetings in unincorporated places from July 1, 1784, to April 1, 1785.

AN ACT in addition to an act, entitled, "*An act for establishing an equitable method of making Rates and Taxes, and determining who shall be legal Voters in Town and Parish affairs*", passed June the 12th, Anno Domini one thousand seven hundred and eighty-four. Passed Nov. 9, 1784.

WHEREAS cattle and horses of three years old were not rated in said act which was contrary to the intention thereof, and whereas it is just and equitable that they should be taxed with other things mentioned therein:

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That all cattle and horses three years old be estimated at one shilling and sixpence each, accounting none three years old till they have been wintered four winters.

Passed November 9, 1784.

AN ACT for raising the sum of twenty-two thousand pounds for the use of this state the present year. Passed Feb. 23, 1785.

[SPECIAL.]

AN ACT in addition to an act, entitled, "*An act to establish an equitable method of making Rates and Taxes, and determining who shall be legal voters in Town and Parish affairs: and also, for repealing certain acts herein after mentioned*"—and to explain certain clauses thereof. Passed Feb. 22, 1786.

WHEREAS in and by the aforesaid act, it is, among other things, enacted, that the buildings of non-residents be taxed at the rate of half of one per cent. ; but the mode of collecting such taxes is not clearly pointed out, although the mode of collecting taxes on unimproved lands of non-residents, is clearly ascertained in said act, which omission has caused doubts to arise in the minds of collectors within this state, how they ought to proceed:

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the several collectors within this state, shall proceed to collect all taxes assessed on the buildings of non-residents, in the same manner as they are empowered to do, upon the unimproved lands of non-resident proprietors of such lands; any law, usage or custom to the contrary notwithstanding.

Passed February 22, 1786.



Passed Feb.
28, 1786.

AN ACT for supplying the Treasury of this state with ten thousand five hundred pounds, for the purpose of discharging the specie part of a requisition of congress of the twenty-seventh of September last, said to be this state's quota of the interest of the foreign debt of the United States.

[SPECIAL.]



Passed March
4, 1786.

AN ACT for raising the sum of ten thousand pounds, for the use of said state the present year.

[SPECIAL.]



Passed Sept.
14, 1786.

AN ACT for supplying the Treasury with the sum of seventy thousand two hundred and seventy-seven dollars and one third of a dollar, for the purpose of discharging that part of the requisition of congress of the twenty-seventh of September, 1785, which is to be paid in Facilities.

[SPECIAL.]



Passed Dec.
30, 1786.

AN ACT for supplying the Treasury of this state with the sum of seventy-six thousand two hundred and sixty eight dollars in specie, and fifty-six thousand four hundred and fifty-two dollars, in Indents on the publick securities of the liquidated debt of the United States, for the purpose of discharging the requisition of congress of the second day of August, 1786.

[SPECIAL.]



Passed Jan.
16, 1787.

AN ACT for ascertaining the Waste Land belonging to this state.

SECT. 3. *And be it further enacted, That any owner and owners of any lands, or other real estate, which may hereafter be sold for the payment of publick taxes, shall have one year for the redemption thereof, from the time of*

sale instead of the time now limited for the redeeming such estate so sold, such owner or owners paying the taxes and charges, as the law in such cases directs; any law, usage or custom to the contrary notwithstanding.

*Passed January 16, 1787.**

* The two first sections in conformity with the title, provide for the appointment of a committee to ascertain, settle, and fix the Masonian western line; and it is not necessary to reprint them.

AN ACT for raising seven thousand two hundred pounds, in Facilities, and three thousand pounds in specie, for the use of this state the current year. Passed Jan. 18, 1787

[SPECIAL.]

AN ACT for raising fifty-nine thousand six hundred and eighty-four dollars in Indents, twenty-five thousand two hundred pounds in Certificates, and three thousand pounds in Specie, for defraying the charges of government the current year, and other contingencies. Passed Feb. 9, 1788.

[SPECIAL.]

*AN ACT to establish a Fund for the redemption of Orders drawn by the president of said state, and for appropriating the Revenue raised by Impost and Excise.** Passed Sept. 28, 1787.

[SPECIAL.]

* This act granted a tax of 10,000 pounds to be collected and paid into the treasury; one half by the first day of January, 1789, and the other half by the first day of January, 1790.

AN ACT for raising fifty-seven thousand two hundred and sixty-eight dollars in Indents, and five thousand pounds in Specie, for defraying the Charges of Government the current year, and other Contingencies, and agreeably to an act of the general court, passed the twenty-eighth day of September, in the year of our Lord one thousand seven hundred and eighty-seven. Passed Feb. 7, 1789.

[SPECIAL.]

AN ACT for making and establishing a new proportion of the Publick Taxes among the several towns, parishes and places within this state; and to authorize the Treasurer to issue his warrants for levying the same annually. Passed Feb. 7, 1789.

AND whereas the inventories of several towns and places mentioned in this act, owing to their being but thinly inhab-

ited or not inhabited at all, do not amount to thirty pounds, and it is reasonable that a different mode of collecting the taxes on such towns and places should be prescribed ;

SECT. 4. *Be it therefore enacted, by the authority aforesaid,* That the treasurer of this state for the time being, shall, at the time of issuing his warrants annually for the taxes of said towns and places, give publick notice in the New-Hampshire Gazette, and in some one of the Boston news papers, of the sum apporportioned to, and to be paid by the owners collectively, of the lands in said towns and places, requiring that the same be paid into the treasury, by the same time that other towns are to pay their said taxes ; and that if the same is not paid accordingly, so much of their lands will be sold as will pay said tax with incidental charges. And if said taxes are not paid by the time prescribed, the treasurer shall make sale of so much of said land at publick vendue as will pay said tax with incidental charges ; first advertising the time and place of sale in the news papers aforesaid three weeks successively.

Passed February 7, 1789.

Passed Feb.
7, 1789.

AN ACT to establish an equitable method of making Rates and Taxes, and determining who shall be legal voters in town and parish affairs, and for repealing certain acts herein after mentioned.

WHEREAS it is necessary that there should be an equitable rule established by law for making rates and taxes within this state, so that every person may be compelled to pay in proportion to his or her estate ; and also for ascertaining who shall be legal voters in town and parish meetings :

SECT. 1. *Be it therefore enacted by the senate and house of representatives, in general court convened,* That henceforward all publick taxes shall be made and assessed in proportion to the amount of each person's poll and rateable estate, which shall be as follows, viz. all male polls from eighteen to seventy years of age shall be estimated at ten shillings each ; horses and oxen which have been wintered five winters, three shillings each ; cows which have been wintered five winters, two shillings each ; cattle and horses which have been wintered four winters, one shilling and six pence each ; cattle and horses which have been wintered three winters, one shilling each ; cattle and horses which have been wintered two winters, six pence each. All improved lands to be estimated as follows, viz. orchard one shilling and six pence per acre, accounting so much for an acre as will produce ten barrels of cyder or perry, one year with another ; arable land one shilling per acre, accounting so much land as will generally produce twenty-five bushels

of Indian corn or other grain equivalent per year, to be one acre ; mowing land one shilling per acre, accounting so much land for one acre as will produce one year with another one ton of English hay, or other hay equivalent ; pasture land at five pence per acre, accounting so much land as will summer a cow, to be four acres. All mills, wharves and ferries shall be estimated at one twelfth part of their net yearly income ; and all other buildings and the unimproved lands owned by the inhabitants, and the non-residents, to be taxed at the rate of half of one per cent. according to the real value thereof. All stock, whether it be the property of a tanner, currier, blacksmith, or other tradesman employed in the business of their trade according to the value thereof ; or money in hand, or at interest, more than the owner gives interest for (except what is due on publick securities) and all money improved in trade shall be estimated at the rate of three quarters of one per cent. and no state, town or parish tax shall be held legal but such as shall be made according to the foregoing proportion.

And if any person conceives him or herself aggrieved by any assessment made by any selectmen or assessors, except in the case herein after mentioned, he or she shall have liberty to apply to the court of general sessions of the peace for abatement, if denied of redress by the selectmen. *Provided, nevertheless,* That this act shall not affect any parish taxes where particular laws authorize a different mode for taxing them, nor shall it extend to, or affect any proprietary taxes.

And the selectmen of each town or parish in this state, in the month of April annually, shall take an invoice of each persons poll and estate in manner aforementioned : and in case any person shall remove to any other town or parish after the invoice is taken, he shall pay his tax that year where his invoice was first taken.

And if any person or persons not belonging to this state, shall come to reside or inhabit in any town or parish within the same, for the benefit of trading, although for a less time than one year, such person or persons shall, and may be assessed one year's rate for his or their polls, and such stock as he or they may bring or have in trade at the time of making his or their rates, whether on their own account or on commissions.

Every male inhabitant twenty-one years old, and upward, paying taxes, shall be deemed a legal voter in all affairs of the town or parish where he dwells. And if any person or persons in any of the towns or parishes in this state, shall refuse to render an account on oath, if required, which oath any selectman may administer, of his or their rateable estate, the selectmen, or the major part of them, may set down to such person or persons as much as they shall judge equitable, by way of doomage, and make their rates or taxes ac-

cordingly ; from which doomage, there shall be no appeal, unless such person or persons are unable to exhibit such account, and are ready to make oath that is really the case.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That the inhabitants of Portsmouth in this state, shall exhibit to the selectmen thereof annually, at such time and place as they shall appoint, within the term aforesaid, each one a just and true account of his poll and rateable estate according to this act : and the several parishes in said town of Portsmouth, shall have liberty at their parish meetings to raise their ministerial and parochial taxes, in any manner they shall judge proper.

And the selectmen and church-wardens of the several towns and parishes within this state, shall have liberty to make abatement of any person's rate, as shall or may appear to them to be equitable and just.

SECT. 3. *And be it further enacted,* That the selectmen of the several towns and parishes in this state, shall take the invoice of polls and rateable estate according to what the said inhabitants shall have or be possessed of, on the first day of April, annually.

SECT. 4. *And be it further enacted, by the authority aforesaid,* That it shall and may be lawful for the selectmen or assessors of the several towns, parishes or places within this state, to assess all buildings and unimproved lands, owned by non-residents in their respective towns and places, their just proportion of the state and county taxes, estimating them as is before directed.

And whereas the mode of collecting taxes so assessed on the lands of non-residents, should be made as plain and as little expensive as possible :

SECT. 5. *Be it therefore enacted, by the authority aforesaid,* That in all towns and places, where the owners of such lands are not resident therein, and are known, they shall be assessed for the taxes aforesaid, in proportion to their interest, and in case the owners of such lands are unknown, then the same lands shall be assessed in the name of the original proprietor or owner thereof ; and each lot where lands are divided into lots, shall be set down in the list of taxes, and the said assessments being made as aforesaid, and the same being delivered to the constable or collector, of the town or place wherein the same lands lie, the said constable or collector shall forthwith forward to the person appointed by the state, to receive the same, a copy attested by the selectmen or assessors of the list of taxes laid on the unimproved lands and buildings of non-residents, within his town or place, to wit, the owner's name if known, and if unknown, the name of the original proprietor or owner, together with the number of each lot, quantity of land, and the several sums at which the said lots, and other parcels of land, shall be assessed, to wit, the state and county taxes in

separate columns, and the said person whose duty it is, or shall be to receive the same, shall immediately advertise three weeks successively, in the New-Hampshire Gazette, and also one of the Boston newspapers, thereby informing all persons concerned, that he has received said list, and requiring all such owners or proprietors, to pay their taxes to him, or to the constable or collector of the town or place wherein the lands lie within eight weeks, notifying also that in default thereof, so much of the lands of each delinquent proprietor or owner, will, at the end of said eight weeks, be advertised for sale, as will pay said taxes and all legal charges; and the said person so advertising is hereby authorized to receive the same, and the sum of five per cent. for his trouble for all sums by him so collected; and at the end of said eight weeks, he shall as soon as may be, return a copy of said list to the constable or collector from whom he received it, retaining in his hands the copies so attested by the selectmen or assessors, specifying in said copy to be returned, who have paid their taxes and who are delinquent, and at the same time forward to the said constable or collector, the money he hath collected, belonging to said town or place, for the county taxes, and the residue thereof, pay to the treasurer of this state, for the use thereof, taking the said treasurer's receipt therefor, in behalf of said town or place, after which the said constable or collector shall advertise so much of the delinquent proprietor's or owner's land for sale as will pay said taxes, with necessary incidental charges, giving at least three weeks notice of the time and place of such sale, by publishing the same in the New-Hampshire Gazette, and also by posting up a like advertisement for the term aforesaid, in some publick place in the town or place wherein the lands advertised for sale lie, and in the two adjacent towns.

And in case the said delinquent proprietor or owner shall neglect to pay the aforementioned taxes laid on his, her or their land, with the necessary incidental charges to the said constable or collector before the sale, then the said constable or collector shall on the day appointed, proceed to make sale at publick auction of so much of the delinquent's land as will pay said taxes with the necessary incidental charges, provided the sale be made between the hours of ten of the clock in the forenoon and six of the clock in the afternoon. And in case all the sales cannot be completed within the hours mentioned on said day, the said constable or collector may adjourn the sale (publickly proclaiming the same) from day to day not exceeding three days.

And the said constable or collector is hereby authorized to execute a valid conveyance of the land so sold to the purchaser.

SECT. 6. *Provided, nevertheless, and be it further enacted,* That each non-resident aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his land or build-

ings sold as aforesaid at any time within the term of one year from the sale thereof as aforesaid, paying or tendering to the purchaser a sum amounting to the real value for which the lands or buildings were sold, with the interest therefor until the time of payment or tender, as aforesaid, together with the cost of the deed or deeds and recording, if any such be given and recorded.

The mode for redeeming such lands and buildings shall be the same as the law prescribes for the redemption of lands mortgaged.

And whereas it often happens that more than one person is interested in a right or proprietor's share of land or some one lot, part of such share held in common and undivided, and one or more being owner or owners in such land, shall pay his, her or their proportion of taxes according to their interest, and some other owner or owners in the same land, being delinquent in paying their proportion of such taxes shall occasion some part of such lands to be sold for the unpaid taxes :

SECT. 7. *Therefore be it enacted,* That the lands sold in such cases shall be only the undivided right of the delinquent owner or owners.

SECT. 8. *And be it further enacted,* That an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs, and also for repealing certain acts therein mentioned, be, and the same, with all the acts mentioned therein, hereby are repealed.

Provided, nevertheless, That all proceedings pursuant to said acts already had, shall be valid as though the same had not been repealed.

SECT. 9. *And be it further enacted,* That the form of the constable or collector's deed shall be as follows, viz.

KNOW all men by these presents, that I in the county of in the state of New-Hampshire, collector of taxes, of and for the in said county, for the year by virtue of sundry acts and laws of said state, relating to levying and collecting taxes of non-resident proprietors of land in the several towns and parishes in said state, for and in consideration of the sum of to me in hand, paid before the delivery hereof by have given, granted and sold, and by these presents do give, grant, sell, and convey unto him the said his heirs and assigns forever, he the said being the highest bidder for the same at publick vendue, duly notified and held at at the dwelling-house of aforesaid, for the sale of lands in said belonging to such non-resident proprietors or owners as are delinquent in paying the said taxes assessed thereon.—To have and to hold the said granted premises, with the appurtenances thereof to him the said his heirs and assigns, in fee-simple forever. And I

the said collector as aforesaid, do in my capacity, agree to and with the said his heirs and assigns, to warrant and defend the said premises to him the said his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever: saving and reserving only to the owner or proprietor, their heirs or assigns, the right of redemption according to law, any thing in this deed to the contrary notwithstanding.

In witness whereof I do hereunto set my hand and seal, the day of Anno Domini 17

Signed, sealed and delivered
in presence of

*Passed February 7, 1789.**

AN ACT to facilitate the collection of Taxes.

*Passed June
13, 1789.*

WHEREAS doubts and difficulties have arisen respecting the mode of collecting taxes assessed on houses and other real estate, belonging to persons not residing in the towns and places where such assessments are made; and taxes assessed on the estates of persons deceased, under the administration of executors or administrators, or where no administration hath been taken; and

Whereas persons not having personal estate whereon distress can be made, do sometimes abscond or secrete themselves so that their bodies cannot be taken, having real estate, which, as the laws now are, cannot be taken and sold for such taxes—by means whereof the collection of taxes in said state hath been much retarded and delayed;

For remedy whereof,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That all houses and other real estate, whether occupied or not, being not already liable to pay taxes as unimproved lands of non-residents, shall be deemed to be, and shall be liable for all taxes assessed, now due and unpaid, and for all taxes that shall hereafter be so legally assessed, and all real estates whatsoever, of deceased persons, lying within said state, whether under administration or not administered upon, shall be deemed to be, and shall be liable for taxes assessed on the estates of such deceased persons, that are now due and unpaid; and for all taxes that shall hereafter be legally assessed on such estates;—and all future assessments on real estate as aforesaid, shall be made in the name of such owner, or in the name of the original owner, or in the name of the last person, who shall appear to have owned the same, or in the name of his heirs, or legal representatives if dead. And all assessments on the estates of deceased persons under the circumstances before mentioned, shall be made and set

* Printed from edition of 1789, which is said to have been “printed from attested copies of the original acts.” It differs, in many unimportant particulars, from the first printed copy, folio edition.

down in the list in general terms, to the heirs or legal representatives of the person deceased.

And every constable or collector of taxes, for each town within this state, who has or shall have in his hands, any list containing such taxes as aforesaid, due and outstanding, shall forthwith transmit to the receiver of non-resident taxes a copy attested by the selectmen of such list, with the names of those persons not inhabitants of said town or place, and of deceased persons whose estates have been or shall be taxed as aforesaid. And the said receiver shall advertise the same as in cases of lists of non-resident taxes forwarded to him, and shall have the same allowance. And in case of non payment, and return of any such list to the collector, he shall advertise, and (unless prevented by payment of such taxes and charges) shall proceed to collect the same by sale of such real estate, taking the direction of the act establishing an equitable mode of making rates and taxes, in every step of his procedure; and is hereby authorized to make a good and valid conveyance of the estate so sold to the purchaser.

And the same term of one year allowed for redemption by that act, shall be allowed to the person or persons interested, his, her or their heirs, executors, administrators or assigns, for redemption of lands or other real estate sold by virtue of this act, and the mode of redemption shall be in all respects the same.

SECT. 2. *And be it further enacted*, That whenever it shall appear to the majority of the selectmen, that any inhabitant of any town or place within this state, has no personal estate whereon distress can be made, or has absconded or secreted himself so that his body cannot be arrested, they are hereby authorized to certify the case of such person under their hands and seals to the collector, and he shall thereupon advertise in the New-Hampshire Gazette, so much of said real estate for sale as will pay such taxes and reasonable incidental charges;—And in case of non payment at the expiration of the time limited therefor, which shall not be less than two months from the first publication of such advertisement, shall sell at publick auction, so much of said estate as will pay said taxes and reasonable incidental charges, according to the directions of the act aforesaid, as to the time and manner of making the sale, and shall make and execute a good and valid conveyance of the estate so sold to the purchaser: Always provided, that there shall be the same right and liberty of redemption in this case as is granted and allowed in cases before mentioned in this act.

Passed June 13, 1789.

Passed Jan.
22, 1790.

AN ACT for raising three thousand pounds for defraying the charges of government the current year.

[SPECIAL.]

AN ACT in addition to an act, entitled, "An act to establish an equitable method of making Rates and Taxes, and determining who shall be legal voters in town and parish affairs;—And for repealing certain acts herein after mentioned." Passed Dec. 28, 1791.

WHEREAS in and by said act, it is enacted amongst other things, relating to taxing unimproved lands and buildings belonging to non-residents in the words following, viz. "And in case the owners of such lands are unknown, the same lands shall be assessed in the name of the original proprietor or owner thereof," and no provision is made for assessing such lands when neither the owner nor original proprietor are known: And whereas it is sometimes the case that considerable quantities of land in certain towns and places are divided into lots, and such lots are not appropriated to any proprietor or owner's right or share, or if appropriated, the records thereof cannot be obtained, and the selectmen or assessors of such towns or places, know not either the owners of such lots, or to what proprietor's rights they are appropriated, which in many instances have prevented the assessing and collecting taxes seasonably, to the great damage of such towns and places as well as to the publick;

For the remedy whereof,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That where there are any lot or lots of land laid out in any town, incorporated or unincorporated place in this state, and such lots are unimproved, and the selectmen or assessors of such town or place, know not the owner or owners of such lots, nor to what proprietor's rights they are appropriated, in such case it shall and may be lawful for such selectmen or assessors to assess such lot or lots by their number and range; and in any case where such towns or places have not been lotted, or only in part, the selectmen or assessors shall assess said land by such description as said land is commonly known by, and that the same be taxed by the acre—and said selectmen or assessors shall, in their warrants for collecting such taxes, set forth and express the date of the grant or charter, under which the division was made, agreeably whereto such assessment was levied; and the collectors shall also make the same known in their advertisements.

And whereas, on the account of the difficulties mentioned in the preamble of this act, the taxes have not been assessed or collected for divers years past in many towns and places in this state, but are yet outstanding: And it being doubtful whether selectmen or assessors for the time being have a right to assess taxes for years preceding their election, and order the collectors to collect the same.—

Therefore,

SECT. 2. *Be it enacted by the authority aforesaid,* That the selectmen and assessors of the several towns and

incorporated places in this state, for the time now being, or who may hereafter be appointed and qualified as the law directs, be, and they hereby are authorized and empowered to assess all outstanding taxes against such towns and places, for such time being, which may not before such time have been assessed as the law directs, in one list; distinguishing each year's tax by itself, and to commit the same to the collector for the time then being, of such town or place, with warrants in due form of law, for collecting and paying over the same as they ought to be. And such collectors are hereby authorized and directed to receive such assessments and warrants, and collect and pay over and account for the sums therein contained, agreeably to their respective warrants. And selectmen, assessors and collectors, in assessing and collecting taxes in the particular cases mentioned in this act, shall proceed in all things agreeably to the former laws of this state now in force, excepting only so far as they are altered and amended in the particular matters herein contained and provided for.

SECT. 3. *And be it further enacted,* That no collector shall execute a deed of any land by him sold, pursuant to this act, within the term of one year, next after such sale; and in case any collector shall die before the expiration of said term, his executor or administrator shall have power, and it shall be his duty to execute a deed or deeds of any lands so sold by his testator or intestate, to the purchaser, if the taxes for which it was sold, together with the charges, and interest shall not be paid or tendered to such collector, his executor or administrator before the expiration of said term.

SECT. 4. *And be it further enacted,* That any person or persons whomsoever, shall have power to prevent the sale of any land or parcel of land, taxed pursuant to this act, by paying the taxes assessed thereon; with the charges that may have accrued to such collector, or tendering the same at any time before such sale.

SECT. 5. *And be it further enacted,* That if any person or persons whomsoever, shall pay or make a tender of payment, of the taxes assessed upon any land or parcel of land that may be sold for taxes pursuant to this act, together with the charges that may have accrued, and the interest of said taxes and charges, to the collector who sold such land, or to his executor or administrator at any time within the term of one year next after such sale; then such collector, his executor or administrator, shall not execute any deed or other conveyance of any such land, sold pursuant to this act, to any person or persons whomsoever.

*Passed December 28, 1791.**

* This act is supposed to be repealed by act of 20th of June, 1792, p. 480; because the act to which it is additional is repealed thereby, and because it repeals all acts relative to making rates and taxes.

AN ACT authorizing the collection of county taxes which are or may be assessed upon non-resident lands in unincorporated towns and places within this state. Passed Jan. 4, 1792.

WHEREAS in and by an act passed February seventh, one thousand seven hundred and eighty nine, "for making "and establishing a new proportion of the publick taxes, "among the several towns, parishes and places within this "state ; and to authorize the treasurer to issue his warrants "for levying the same annually," the towns and places which are not incorporated, are proportioned and set down in said act, and no provision is made in and by said act where- by county taxes can be collected ;

Therefore for the remedy whereof,

Be it enacted by the senate and house of representatives, in general court convened, That the several and respective county treasurers within this state, be, and they hereby are authorized and empowered to collect county taxes in the same way and manner as the state treasurer is in and by said act authorized to collect state taxes of unincorporated towns and places in said state ; and that said county treasurers be, and they hereby are authorized to assess and collect all back taxes now due from any such unincorporated towns and places, in one tax-bill, in the same way and manner, as they are hereby authorized to collect taxes for any one year, any law, usage, or custom to the contrary notwithstanding.

Provided, nevertheless, That this act shall be immediately published, but not take effect until the first day of September next.

Passed January 4, 1792.

AN ACT in addition to an act, passed February 7th, 1789, entitled, "An act to establish an equitable method of making Rates and Taxes, and determining who shall be legal voters in town and parish affairs, and for re-pealing certain acts herein after mentioned." Passed Jan 5, 1792

WHEREAS at the time of the passing said act, the publick securities of this state as well as of other states in the union, and of the United States, were then at a low depreciated value, but have since greatly appreciated and become productive to the holders thereof ; Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That from and after the passing of this act, the holders of publick securities shall be taxed in all future taxes and assessments, at the rate of one eighth of the annual interest said securities yield, in the same way and manner as for money on hand or at interest ; and it shall be the duty of the selectmen to tax the holders of said securities accordingly, any law, usage or custom to the contrary notwithstanding.

Passed January 5, 1792.

Passed Feb.
22, 1784.

AN ACT to establish an equitable method of making rates and taxes, and collecting such as are now due from, or may hereafter be assessed on such towns and places as are, or may be incapable of choosing town officers.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That henceforward all publick taxes shall be assessed on the polls and rateable estates in the manner following, to wit, each male poll, from eighteen to seventy years of age, to be valued at eight shillings ;—stallions* or steed horses, which have been wintered three winters, each at one pound ten shillings ;—other horses and mares, which have been wintered five winters, each at four shillings ;—other horses and mares, which have been wintered four winters only, each at three shillings ;—other horses and mares, which have been wintered three winters only, each at two shillings ;—other horses and mares which have been wintered two winters only, each at one shilling ;—oxen which have been wintered five winters, each at three shillings ;—cows which have been wintered five winters, each at two shillings ;—all other neat stock which has been wintered four winters only, each at one shilling and six pence ;—all other neat stock which has been wintered three winters only, one shilling each ;—all other neat stock which has been wintered two winters only, each at six pence, reckoning the winter to begin the first day of December and to end the last day of March. Orchard land, accounting so much for an acre as will one year with another make ten barrels of cider or perry, each acre at one shilling and six pence ;—arable land, accounting so much for an acre as will produce twenty five bushels of Indian corn or other grain equivalent, one year with another, at one shilling each acre. Mowing land, accounting so much an acre as will produce one ton of English hay, or other hay equivalent, one year with another, at one shilling for each acre ;—pasture land, accounting so much as will keep one cow one year with another, four acres, each acre at five pence. Mills, wharves and ferries to be estimated at one twelfth part of their net yearly income, after deducting repairs ; all other buildings and unimproved lands, whether owned by inhabitants, or non-residents, at half one per cent. of the real value ; all stock or property whether of tanners, curriers, blacksmiths, or other tradesmen employed in the business of their trades, at half one per cent. ; all stock in trade of merchants, shopkeepers, or other traders, reckoning the same at the average value thereof for a year, at half one per cent. ; all money on hand or at interest, more than the owner pays interest for, at three quarters of one per cent. ; all property in publick funds to be estimated at the same rate according to its real value.

SECT. 2. *And be it further enacted,* That the collectors of taxes, and the person appointed to receive non-resident

* In the original *stallion*.

taxes, shall proceed in the business of collecting the taxes levied upon the real estates of non-residents in all things agreeably to the laws of this state now in force ; excepting that the said receiver of non-resident taxes shall publish his notification of such taxes in a newspaper printed (if such there be) in the county where such estate may lie, and not in a Boston newspaper ; and the collector of such taxes shall publish his advertisement for the sale of such estate in a newspaper printed (if such there be) in the county where such estate may lie, as well as in the New-Hampshire Gazette.

SECT. 3. *And be it further enacted,* That when any taxes are or shall be proportioned to any town or place not incorporated, having so few inhabitants as to be incapable of choosing town officers, the treasurer of the state shall assess the proportion of such town or place, and commit the same to the sheriff of the county where the lands lie, with a warrant under his hand and seal, empowering said sheriff to collect the same ; and every such sheriff shall have the same power and authority respecting the taxes committed to him to collect which collectors of towns have with respect to the taxes of non-residents ; and shall observe the same directions, which are by law pointed out—and he shall in all cases advertise also in the shire or in one of the nearest half shire towns in the county where such lands may lie—and shall also hold his sales in such shire or half shire town ; and may give deeds in the same form (*mutatis mutandis*) which deeds shall be of equal efficacy, as those given by collectors chosen by incorporated towns—and the treasurer shall have like remedy by extent against such sheriffs as he by law has against collectors—and the treasurer may always presume that a town or place is incapable of choosing town officers, where no return of a collector is made to him on or before the last day of December in each year ; and unless the treasurer is certified under the hand of the clerk of the proprietors of any such town, or place, before the said last day of December in each year, that such town or place is divided among the proprietors, and also served with a copy of such division or partition so as to enable him to tax the several owners of the same, he shall assess the whole in one sum ; but if he is so certified, he shall assess the original owners according to the their several interests in quantity without regard to the quality of their lands ; and in either case his proceedings shall be good and valid, any proceedings of the proprietors notwithstanding.

SECT. 4. *And be it further enacted,* That the several and respective county treasurers in this state, shall have like power and authority respecting county taxes, as is in this act given to the state treasurer, and may pursue the same measures in collecting county taxes—and the sheriffs, to whom any such warrants for collecting county taxes are de-

livered, shall have the same authority, and proceed in the same manner as is herein provided for them to collect state taxes, and deeds by them given in similar form shall be equally valid.

SECT. 5. *And be it further enacted*, That where any taxes have heretofore been assessed to the state, or to any particular county, and yet remain unpaid, the same may be collected in the same manner, as taxes hereafter to be assessed, are by this act ordered to be collected.

SECT. 6. *And be it further enacted*, That for all taxes heretofore apportioned to townships and places of the foregoing description agreeably to the several laws of the state, and now remaining unpaid, and where collectors have not been returned, the selectmen or assessors, for the time being, shall make out in one sum the whole amount of the several years taxes now due, first reducing the paper taxes to seven shillings specie for every twenty shillings paper, and may appoint a collector thereof, who shall have the same power as any other collectors by law have.—And the said collectors, at any time before the last day of December next, may be returned to the treasurer, and in case such collectors are not returned, the several treasurers shall have the same power of assessing in one sum the said arrears, as the selectmen and assessors have by this act.—And the respective treasurers and sheriffs are hereby as fully empowered with respect to assessing and collecting said arrears, as by this act are given in other cases.

SECT. 7. *And be it further enacted*, That the sheriff shall be allowed for the services herein prescribed, double the poundage given by law on executions, the printer's bill for advertisements, and legal postage for letters for procuring the said advertisements to be published, and for posting the notice required by the laws of the state, which shall be considered full compensation for such services. Provided, that no collector or sheriff shall execute a deed of any real estate by him sold for taxes, until the time for redeeming the same shall be expired; provided such time of redemption shall not exceed the term of twelve months from the time of sale.—And in case any sheriff or collector shall die, remove, or any way be rendered incapable of completing the duty of such office, their successors respectively, shall complete the same.—And if any person whatsoever shall pay or tender the amount of any one tax and the legal charges, and the interest thereof, to such sheriff or collector or their successor at any time before a deed or deeds of such lands shall be actually executed, no further proceedings shall be had thereupon.

SECT. 8. *And be it further enacted*, That the inhabitants of Portsmouth, in this state, shall exhibit to the selectmen thereof, annually, at such time and place as they shall appoint, each one a just and true account of his poll and

rateable estate according to this act.—And the several parishes in said Portsmouth shall have liberty, at their parish meetings, to raise their ministerial and parochial taxes in any manner they shall judge proper.

Approved February 22, 1794.

AN ACT for raising twenty-six thousand six hundred and sixty-six dollars and sixty-seven cents for the use of this state. Passed Jan. 9, 1795.
[SPECIAL.]

AN ACT in addition to, and amendment of an act, entitled, "An act to establish an equitable method of making rates and taxes, and for collecting such as are now due from, or may hereafter be assessed on such towns and places as are, or may be incapable of choosing town officers." Passed June 17, 1796.

SECT. 1. **B**E it enacted by the senate and house of representatives, in general court convened, That the treasurer of this state is hereby authorized and directed to redeem, with any monies now in the treasury, all such townships or locations as have been sold pursuant to warrants issued, either for state or county taxes, agreeably to the directions hereafter mentioned, excepting those that have already been, or shall be redeemed prior to the time fixed in this act for redemption by the state, viz. That previous to any redemption by him made, he is hereby directed to give publick notice to all persons concerned, by publishing an advertisement in the New-Hampshire Gazette, the Eagle printed at Hanover, and the Boston Mercury, in which advertisement shall be inserted the substance of this act, also that it be his duty to attend said business from the first to the tenth day of August next inclusive, at Exeter, and that he shall proceed to redeem such townships and locations as have been sold by virtue of said act, where the purchaser or purchasers shall neglect to appear and give bonds within said time to the sheriff who sold the same with sureties, conditioned that he or they will relinquish his or their claim to any lot, right, or tract of land where the owner, proprietor or claimant shall pay his or their proportion of the sum for which such township or location was sold, with interest thereon, on or before the expiration of one year from the day of sale; and the said sheriff or sheriffs on receiving indemnification, may, and it shall be his or their duty to receive of any person or persons claiming any lot or tract of land sold as aforesaid, their proportion of the sum for which said land was sold, according to their interest therein, together with interest therefor, which proportion shall be made according to the number of acres, without regard to the

quality of said land ; and the said sheriffs shall except the proportion any claimant shall redeem, in the deed he shall make to the purchaser or purchasers of any township or townships or locations ; and the treasurer is hereby directed to call on any sheriff or sheriffs who have sold lands as aforesaid, whose duty it shall be to attend from the said first to the tenth day of August next at Exeter accordingly ; and if the sheriff or sheriffs shall neglect to attend on said business as aforesaid, it shall be the duty of the treasurer to redeem the lands as herein directed.

SECT. 2. *And be it further enacted,* That in all cases where the tax of any township or location is assessed in one sum by the treasurer, either for state or county taxes, and such township is not sold, the said sheriff or sheriffs are hereby authorized and directed to receive from any owner, proprietor or claimant (when tendered) his proportion of the assessment and cost (if any) according to his interest therein ; the proportion to be made according to the number of acres as aforesaid, and after any sale shall be made by virtue of the act to which this is an addition, any proprietor, owner or claimant may redeem his share of the same according to his interest therein, paying his proportion as aforesaid, and the sheriff shall make the exceptions in his deed to the purchaser or purchasers as herein pointed out, where townships or locations have been sold ; and the treasurer is hereby authorized to proceed in the collection thereof, any resolve to the contrary notwithstanding.

Approved June 17, 1796.

It may admit of a question whether the acts of January 4, 1792, p. 543—February 22, 1794, p. 544, and the foregoing act were totally repealed by the act of Dec. 10, 1796, p. 264. That act only repeals such parts of acts as relate to assessments *made by any town or place* on the unimproved land of non-residents, and does not comprehend assessments made by the state or county treasurers.

Passed Dec. 16, 1797. *AN ACT for raising twenty-six thousand six hundred and sixty-six dollars and sixty-seven cents.*

[SPECIAL.]

Passed Dec. 26, 1798. *AN ACT to establish an equitable method of making rates and taxes.*

BE it enacted by the senate and house of representatives, in general court convened, That hence-forward all publick taxes shall be assessed on the polls and rateable estates in the manner following, viz.—Each male poll from eighteen to seventy years of age (excepting those from eighteen to twenty-one enrolled in the militia, ordained ministers, stu-

dents of colleges, paupers and idiots,) to be valued at one dollar and thirty-four cents; stallions or stud horses that have been wintered three winters, each at five dollars; other horses and mares that have been wintered five winters, each at sixty-six cents; other horses and mares that have been wintered four winters only, each at fifty cents; other horses and mares that have been wintered three winters only, each at thirty-four cents; other horses and mares that have been wintered two winters only, each at sixteen cents; oxen that have been wintered five winters, each at fifty cents; cows that have been wintered five winters, each at thirty-four cents; all neat stock that have been wintered four winters only, each at twenty-five cents; all neat stock that have been wintered three winters only, each at sixteen cents; all other stock that has been wintered two winters only, each at eight cents; reckoning the winter to begin the first day of December, and to end the last day of March;—orchard land, accounting so much for an acre as will one year with another, make ten barrels of cider or perry, each acre at twenty-five cents; arable land, accounting so much for an acre as will produce twenty-five bushels of Indian corn or other grain equivalent, one year with another at sixteen cents; mowing land, accounting so much for an acre as will produce one ton of English hay, or other hay equivalent, one year with another, at sixteen cents for each acre; pasture land, accounting so much as will keep one cow, one year with another, four acres, each acre at seven cents; mills, wharves and ferries, to be estimated at one twelfth part of their net yearly income, after deducting repairs; all other buildings and unimproved lands, whether owned by inhabitants or non-residents, at half of one per cent. of the real value; all stock or property whether of tanners, curriers, blacksmiths, or other tradesmen, employed in the business of their trades, at half of one per cent.; all stock in trade of merchants, shopkeepers, or other traders, reckoning the same at the average value thereof for a year, at half of one per cent.; all money on hand or at interest, more than the owner pays interest for, at three quarters of one per cent.; and all property in the publick funds, to be estimated at the same rate according to its real value.

Approved December 26, 1798.

AN ACT for making and establishing a new proportion of publick taxes among the several towns, parishes and places within this state; and to authorize the treasurer to issue his warrants for levying the same annually. Passed Feb. 22, 1794.

[SPECIAL.]

Passed Dec. 26, 1798. *AN ACT for making and establishing a new proportion of publick taxes among the several towns, parishes and places within this state; and to authorize the treasurer to issue his warrants for levying the same annually.*
[SPECIAL.]

Passed Dec. 27, 1798. *AN ACT enabling the treasurer of the state and treasurer of the county of Hillsborough, for the time being, to rectify certain mistakes in the proportion act, passed December 26, 1798.* [SPECIAL.]

Passed Dec. 30, 1799. *AN ACT for raising twenty-seven thousand dollars for the use of this state.*
[SPECIAL.]

Passed Dec. 2, 1800. *AN ACT enabling the treasurer of this state, and the treasurer of the county of Grafton, to deduct forty five cents from the sum carried off against the town of Thornton in the last proportion of publick taxes among the several towns, parishes and places within this state, and add the like sum to the town of Peeling.*
[SPECIAL.]

Passed Dec. 30, 1803. *AN ACT to raise thirty thousand dollars for the use of this state.*
[SPECIAL.]

Passed Dec. 24, 1803. *AN ACT to establish the rates at which Polls and rateable Estates shall be valued, in making and assessing direct Taxes.*

BE it enacted by the senate and house of representatives, in general court convened, That hereafter all publick taxes shall be assessed on the polls and rateable estates in manner following, namely: each male poll from eighteen to seventy years of age (except those from eighteen to twenty-one enrolled in the militia, ordained ministers, the president, professors, tutors, and students of colleges, paupers and idiots) to be valued at one dollar and thirty cents; stallions or stud horses that have been wintered three winters, each at five dollars; other horses and mares that have been wintered five winters, each at seventy cents; other horses and mares that have been wintered four winters only, each at fifty cents; other horses and mares that have been wintered three winters only, each at thirty cents; other horses and mares that have been wintered two winters only, each at ten cents; ox-

en that have been wintered five winters, each at forty cents ; oxen that have been wintered four winters only, each at thirty cents ; cows that have been wintered four winters, each at twenty cents ; all neat stock that have been wintered three winters only, each at ten cents ; all neat stock that have been wintered two winters only, each at five cents ; reckoning the winter to begin the first day of December, and to end the last day of March ;—orchard land, accounting so much for an acre as will one year with another make ten barrels of cider or perry, each acre at thirty cents ; arable land, accounting so much for an acre as will produce twenty-five bushels of Indian corn, or other grain equivalent, one year with another, at twenty cents ; mowing land, accounting so much for an acre as will produce one ton of English hay, or other hay equivalent, one year with another, at twenty cents ; pasture land, accounting so much as will keep one cow, one year with another, four acres, each acre at five cents ; mills, wharves and ferries, to be estimated at one twelfth part of their net yearly income after deducting repairs ; all other buildings and unimproved lands, whether owned by inhabitants or non-residents, at half of one per cent. of their real value ; all stock or property, whether of tanners, curriers, blacksmiths, or other tradesmen, employed in the business of their trades, and all stock in trade of merchants, shopkeepers, or other traders, reckoning the same at the average value thereof for a year, at half of one per cent. ; all bank shares, at one per cent. ; all money on hand, or at interest, more than the owner pays interest for (exclusive of shares in banks) at three quarters of one per cent. ; all property in the publick funds, to be estimated at the same rate, according to its real value ; all chaises, sulkeys, coaches, and other wheel carriages of pleasure, or for the conveyance of persons, at half of one per cent. of their real value.

The foregoing bill having passed both houses of the general court on the 19th day of December, 1803, was on the same day presented to the governor for his approbation and signature. And the same bill not having been returned by him within five days (exclusive of sunday) after it was presented (or at any time afterwards) and the legislature not having adjourned until the 30th day of the same December, it became a law December 24, 1803.

Repealed by act of 16 Dec. 1812. p. 263.

*AN ACT in addition to an act, entitled, "An act to establish the rates at which polls and rateable estates shall be valued, in making and assessing direct taxes," passed December 19th, 1803.** Passed Dec 22, 1808.

BE it enacted by the senate and house of representatives, in general court convened, That hereafter all the bank

* This was the day on which it passed the two houses ; but it is conceived that it did not become a law till the 24th December, 1803. See above.

shares, owned in this state, shall be rated and taxed in all direct taxes, at three fourths of one per cent. ; any clause or thing in the aforesaid act, or any law, usage, or custom, to the contrary notwithstanding.

Approved December 22, 1808.

AN ACT in addition to an act, entitled, "An act to establish the rates at which polls and rateable estates shall be valued in making and assessing direct taxes."

Passed June
27, 1809.

BE it enacted by the senate and house of representatives, in general court convened, That hereafter, all publick taxes shall be assessed on all jacks, mules, and carding machines, in the manner following, namely: each jack that has been wintered three winters, to be valued at two dollars and fifty cents: mules that have been wintered four winters, at seventy cents each; other mules that have been wintered three winters only, at fifty cents each; other mules that have been wintered two winters only, at thirty cents each; reckoning the winter to begin the first day of December and to end the last day of March: carding machines to be estimated at one twelfth part of their net yearly income, after deducting repairs.

*Approved June 27, 1809.**

*This act was repealed by act of June 20, 1811.

AN ACT in addition to an act, entitled, "An act to establish the rates at which polls and rateable estates shall be valued in making and assessing direct taxes."

Passed June
20, 1811.

SECT. 1. **BE** it enacted by the senate and house of representatives, in general court convened, That hereafter all publick taxes shall be assessed on all jacks, mules and carding machines in the manner following, namely: each jack that has been wintered three winters, to be valued at two dollars and fifty cents; mules that have been wintered four winters, at fifty cents; other mules that have been wintered three winters only, at thirty cents; other mules that have been wintered two winters only, at ten cents each; reckoning the winter to begin the first day of December, and to end the last day of March: and all carding machines to be estimated at one twelfth part of their net yearly income, after deducting repairs.

SECT. 2. *And be it further enacted,* That an act in addition to the above mentioned act, made and passed the 27th day of June, 1809, be, and the same hereby is repealed.

Approved June 20, 1811.

The four last mentioned acts were repealed by act passed December 16, 1812, p. 263.

AN ACT for making and establishing a new proportion for the assessment of Publick Taxes among the several towns and places within this state, and to authorize the treasurer to issue his warrants annually for levying the same, passed December 23, 1803.

[SPECIAL.]

AN ACT for making and establishing a new proportion for the assessment of Publick Taxes among the several towns and places within this state, and to authorize the treasurer to issue his warrants annually for levying the same, passed December 21, 1808.

[SPECIAL.]

AN ACT for making and establishing a new proportion for the assessment of Publick Taxes among the several towns and places within this state, and to authorize the treasurer to issue his warrants for levying the same, passed December 15, 1812.

[SPECIAL.]

AN ACT authorizing the raising and collecting of a County Tax in and for the county of Coos the present year, passed June 9, 1807.

[SPECIAL.]

AN ACT for raising Thirty Thousand dollars for the use of this state, passed December 30, 1805.

[SPECIAL.]

AN ACT for raising Thirty Thousand dollars for the use of this state, passed June 26, 1810.

[SPECIAL.]

AN ACT for raising Thirty Thousand dollars for the use of this state, passed June 19, 1811.

[SPECIAL.]

AN ACT for raising Thirty Thousand dollars for the use of this state, passed December 17, 1812.

[SPECIAL.]

AN ACT for raising Forty-Five Thousand dollars for the use of this state, passed June 24, 1814.

[SPECIAL.]

25,000 dollars to be paid into the treasury by January 1, 1816, appropriated for discharging the ordinary expenses of the state.

20,000 dollars to be paid at the same time, appropriated for defraying the expenses of defending the town and harbour of Portsmouth, and the sea coast.

AN ACT to facilitate the payment of outstanding Taxes, passed February 28, 1786.

WHEREAS the outstanding taxes due from the good subjects of this state, payable in facilities, would be rendered less burthensome if the number of the facilities were increased: Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That for all outstanding taxes payable in interest certificates, or other facilities, the several constables and collectors within this state, be, and hereby are directed to receive in payment of such taxes final settlement securities issued from the paymaster's office, and other certificates and securities of the liquidated debt of the United States, excepting only loan office certificates, at the following rates, viz.—at three for one until the first day of August next; at four for one between the said first day of August and the first day of October next; and at five for one between the first day of October and the fifteenth day of December next.

SECT. 2. *And be it further enacted,* That the treasurer of this state is hereby directed to receive from the several constables and collectors the aforesaid securities at the beforementioned rates, provided the same are paid into the treasury within fifteen days after the respective days of payment before specified.

Passed February 28, 1786.

This act should have been inserted at page 532, before the act of March 4, 1786.

ACTS

RESPECTING DEEDS, CONVEYANCES AND TITLE BY LEVY OF
EXECUTION, &c. PASSED BEFORE FEB. 10, 1791.

AN ACT for recording Deeds and Conveyances.

Passed 13
Wm. 3.

FOR preventing fraudulent and uncertain sales of houses and lands, and to the intent it may be the better known what title or interest persons have in or to such estates as they shall offer to sale;

SECT. 1. *Be it enacted by the lieutenant governor, council, and representatives, convened in general assembly, and by the authority of the same,* That henceforth all deeds or conveyances of any houses or lands within this province, signed and sealed by the party or parties granting the same, having good and lawful right or authority thereto, and acknowledged by such grantor or grantors before a justice of the peace, and recorded at length in the records of this province, where such houses and lands do lie, shall be valid to pass the same without any other act or ceremony in the law whatsoever: and that from and after three months next after publication of this act, no bargain, sale, mortgage, or other conveyance of houses or lands, made and executed within this province, shall be good in law to hold such houses or lands against any other person or persons, but the grantor or grantors and their heirs only, unless the deed or deeds thereof be acknowledged and recorded in manner as is before expressed. *Provided,* nevertheless, that when and so often as it shall happen any grantor to live in parts beyond the sea, or to be removed out of this province, or to be dead, before any deed or conveyance by him or her made, be acknowledged, as aforesaid; in every such case, the proof of such deed or conveyance made by the oaths of two of the witnesses thereto subscribed, before any court of record within this province, shall be equivalent to the parties own acknowledgment thereof.

SECT. 2. *Be it further enacted, by the authority aforesaid,* That if any grantor or vendor of any houses or lands, shall refuse to acknowledge, as is abovesaid, any grant, bargain, sale, or mortgage by him or her signed and sealed, being thereunto required by the grantee or vendee, his, her, or

their heirs or assigns, it shall be lawful for any justice of the peace within this province, where such grantors or vendors live, upon complaint, to send for the party so refusing ; and if he or she persist in such refusal, to commit him or her to prison, without bail or mainprize, until such party shall acknowledge the same ; it being first made appear and proved to be the act and deed of the same party, by the oath of one or more of the witnesses thereto subscribed ; and such grantee or vendee, filing a copy of his deed so proved in the records of the province, shall thereby secure his title in the mean time ; and the same shall be accounted sufficient caution to every other person or persons against purchasing the estate in such deed mentioned to be granted.

Provided, Nothing in this act be construed, deemed, or intended* to bar any widow of any vendor or mortgagor of lands or tenements from her dowry or right in or to such lands or tenements, who did not legally join with her husband in such sale or mortgage, or otherwise lawfully bar or exclude herself from such her dowry or right.

SECT. 3. *Be it further enacted, by the authority aforesaid*, That any mortgagee of any lands or tenements, his or her heirs, executors or administrators, having received full satisfaction and payment of all such sum and sums of money as are really due to him by such mortgage, shall at the request of the mortgagor, his heirs, executors or administrators acknowledge, and cause such satisfaction and payment, to be entered in the margin of the record of such of mortgage, in the province records, and shall sign the same ; which shall forever thereafter discharge, defeat, and release such mortgage, and perpetually bar all actions to be brought thereupon in any court of record : and if such mortgagee, his or her heirs, executors or administrators, shall not within ten days next after request in that behalf made, and tender of his or her, or their reasonable charges, repair to the records, and there make and sign such acknowledgment, as aforesaid, or otherwise sign and seal a discharge of the said mortgage and release, and quit-claim to the estate therein mentioned to be granted, and acknowledge the same before a justice of the peace, he, she or they so refusing, shall be liable to make good all damages for want of such discharge or release ; to be recovered by action, or suit in any court of record ; and in case judgment pass against the party so sued, he, she or they so cast, shall pay unto the adverse party treble cost arising upon such suit.

SECT. 4. *Be it further enacted, by the authority aforesaid*, That the recorder for this province, shall fairly enter and record at length all deeds, conveyances, and mortgages of lands, tenements, rents, or other hereditaments, lying and being within said province, made, executed, and acknowledged or proved in manner aforesaid, which shall be brought

* *Extended* in edition 1771.

to him to record; and shall on receipt thereof into the office, note thereupon the day, month and year, when he received the same; and the record shall bear the same date. And every such recorder before he execute the said office shall be sworn truly and faithfully to execute the same. And it shall and may be lawful to and for the recorder aforesaid, to ask and receive for entering, and recording any deed, conveyance, or mortgage *two shillings*; and if above one side of a whole sheet of paper in said deed, after the rate of *twelve pence* per page, and *six pence* for his attestation on the original, of the time, book, and folio, where it is recorded; and for a discharge of a mortgage, as aforesaid, *one shilling*, and no more.

SECT. 5. *And be it further enacted, by the authority aforesaid,* That all deeds of bargain, sale, or mortgage heretofore made and executed, according to former laws and usage within this province, shall be valid and effectual.

SECT. 6. *And be it further enacted, by the authority aforesaid,* That whereas the records of this province are of great moment and concern to the inhabitants thereof, that they shall not be committed into the hands of any person whatsoever, as recorder, unless he be a person of known integrity; also that he be a freeholder within the same, and of a valuable estate, to respond any damage that may accrue.

Repealed by act 20th June, 1792. p. 474.

See act for making of lands and tenements liable to the payment of debts, passed 4 Geo. sect. 2 & 3.

AN ACT to prevent and make void clandestine and illegal Purchases of Lands from the Indians. Passed 5 Geo. 1.

SECT. 1. **B**E it enacted by his excellency the governor, council, and representatives, in general assembly convened, and by the authority of the same, That all deeds of bargain, sale, lease, release, or quitclaim, titles, and conveyances whatsoever of any lands, tenements, or hereditaments within this province, as well for term of years as forever, had, made, gotten, procured, or obtained from any Indian or Indians, by any person or persons whatsoever at any time or times since the year of our Lord one thousand seven hundred, without the license or approbation of the general assembly of this province; And all deeds of bargain, and sale, titles, and conveyances whatsoever of any lands within this province, which hereafter shall be had, made, obtained, gotten or procured from any Indian or Indians, by any person or persons whatsoever without the license, approbation, or allowance of the general assembly of this province for the same, shall be judged in the law to be null, void, and of none effect to all intents and purposes, as though they had never been made.

SECT. 2. *And be it further enacted, by the authority aforesaid, That if any person or persons whatsoever, shall, after the publication of this act presume to make any purchase, or obtain any title from any Indian or Indians, for any lands, tenements or hereditaments within this province, contrary to the true intent and meaning of this act; such person or persons so offending, and being thereof duly convicted in any of his Majesty's courts of record within this province, shall be punished by fine and imprisonment, at the discretion of the court where the conviction shall be, not exceeding double the value of the land so purchased, and not exceeding six months imprisonment.*

SECT. 3. *And be it further enacted, by the authority aforesaid, That the selectmen in each town shall cause to be posted up in all publick houses within each town within this province, a list of the names of all persons reputed drunkards, or common tipplers, mispending their time and estate in such houses; and every keeper of such house, after notice given him, as aforesaid, that shall be convicted before one or more justices of the peace, of entertaining or suffering any of the persons named in such list to drink or tittle in his or her house, or any the dependencies thereof, shall forfeit and pay the sum of *twenty shillings*; one moiety thereof to him or them who shall inform of the same, and the other moiety to and for the use of the poor of the town where such offence shall be committed.*

Repealed by act 20th June, 1792. p. 477.

Passed 12
Geo. 1.

AN ACT to ascertain the time for the redemption of Lands mortgaged on condition, or by deed of sale with defeasance.

SECT. 1. **B**E it enacted by the lieutenant governor, council, and representatives convened in general assembly, and by the authority of the same, That where any mortgagee or vendee of any houses or lands granted on condition, hath recovered or entered into, and taken possession of the same, for the condition broken, the mortgagor or vendor or his heirs tendering payment of the original debt and damages, or such part thereof as was remaining unpaid at the time of entry, with reasonable costs and allowance for any disbursements afterwards, laid out on such housing and lands, for the advancement and bettering the same, over and above what the rents and profits or improvements thereof made shall amount unto, upon a just computation thereof by the court, as on hearing the parties shall be made to appear; the mortgagee or vendee, or his heirs, or the present tenant in possession, (being the purchaser, and holding in his own right) shall be obliged to accept such payment, and to restore and deliver the possession of the estate unto the mortgagor or vendor, or his heirs, and seal and execute,

and acknowledge a good and sufficient deed in the law of release and quitclaim to the same ; but in case of his not appearing in court, or refusal to accept such payment tendered, the whole of the said monies which the court shall enter judgment for, being left in custody of the court, on behalf, and for the use of the mortgagee or vendee, his heirs or assigns, judgment shall be entered up for the mortgagor or vendor, or his heirs, to recover possession of such houses or lands, and execution be accordingly awarded.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That at any time hereafter, where the mortgagee or vendee shall be in actual possession of any estate granted on condition, or bargain and sale with defeasance, it shall be in the liberty of the mortgagor or vendor, or his heirs, to bring his suit in manner as aforesaid, for redemption thereof, within the space of one year, to be accounted from the time of the mortgagee's entry into, and taking possession, or being put into the possession thereof, by writ of possession, and not afterwards.

Provided also, That this act shall not be understood, to bar the title of any infant, feme-covert, or person non compos mentis, imprisoned, or in captivity, who shall be allowed the term of one year next after such imperfection removed, to pursue their claim or challenge, to any houses or lands wherein they have title.*

Repealed by act 20th June, 1792. p. 478.

* Taken from the Massachusetts act of 1698.—This is a part only of the Massachusetts act—The title is different.

AN ACT to remove any doubts about the recording of Deeds and proving of Wills in the several counties in this Province, since the division thereof into counties : and for providing a further security of persons titles to real estates. Passed May 28, 1773.

WHEREAS some part of the operation of the acts dividing this province into counties, was suspended for certain times therein limited, after the passing of the same ; and some doubts have arisen about the operation and construction of said acts, respecting the recording of deeds, the probate of wills, and granting administrations in the several counties in this province ;

To remove which, and for the end aforesaid,

SECT. 1. *Be it enacted by the governor, council and assembly,* That all deeds and conveyances of any estate in this province, received, filed or recorded, and all other matters done and transacted by each of the recorders of deeds in the several counties in this province, belonging to their respective offices, since said acts were made ; and all wills proved and administrations granted by any judge of the probate of wills, &c. within any county in this province, and

All other matters relating to their office, done or transacted by them or any of them, since the passing said acts ; and all things that shall be done or transacted by such judge or judges, recorder or recorders, touching their respective offices, in their several counties, until the said limited times, in said acts be expired, shall be good and valid to all intents and purposes, said limitations notwithstanding.

SECT. 2. *And be it further enacted, by the authority aforesaid, That from henceforth any purchaser or purchasers of any real estate within any of the counties in this province, may record his or their deeds in any county, besides recording it in the county where such estate is ; and in case of misfortune to, or destruction of the record of the same, in the county where such estate is situate, then an attested copy of such deed or deeds produced from any of the other county records shall be allowed as authentic, as copies from the recorder's office in the county where the same estate is situate.*



Passed 6
Geo. 3.
Jan. 23.

AN ACT for recording all powers of Attorney, or instruments, by virtue of which any deeds of Conveyance of houses or lands shall be made, or already made, but not so recorded ; and for preserving affidavits, taken in Perpetuam rei Memoriam.

WHEREAS it frequently happens, that by reason of grantors living abroad beyond sea, out of the province, or some other necessary cause or conveniency, deeds of conveyance of houses, lands or other estates of inheritance are made, by virtue of powers of attorney, or authority granted to some other person, by the owner or grantor of the estate ; and if by accident the original instrument giving such authority, should be lost, the deed conveying the estate would be void or called in question, and the grantee, or such as hold under him injured, disputes increased, and titles to such estates rendered dubious and uncertain for want of a proper authentic record of such powers :

For prevention whereof,

Be it enacted by the governor, council and assembly, That when any deed of conveyance of any house, land, or real estate whatsoever, shall be made by virtue of any power of attorney or instrument, authorizing any person to execute a deed or deeds of conveyance of such estate, being proved as the deed thereby made, and therewith recorded, a copy of such power shall be deemed, adjudged and allowed to be as good evidence as the copy of such deed, and shall be admitted accordingly in any court in this province.

And any testimony or affidavit taken in *perpetuum rei memorium* of any matters whatever, being entered and recorded in the registry of deeds, a copy of such record, the original being lost, may be given in evidence in any court as occasion may require, in such cases where the original might lawfully be admitted.

Repealed by act 20th June, 1792, p. 479.

AN ACT for making of Lands and Tenements liable to the payment of debts. Passed
Geo. 1.

WHEREAS the estate of persons within this province, do chiefly consist of houses and lands, which give them credit, some being remiss of paying their just debts, and others happening to die before they have discharged the same :

SECT. 1. *Be it therefore enacted and ordained by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same,* That all lands or tenements belonging to any person in his own proper right in fee, shall stand charged with the payment of all just debts owing by such person, as well as his personal estate, and shall be liable to be taken in execution for satisfaction of the same, where the debtor or his attorney shall not expose to view, and tender to the officer* personal estate sufficient to answer the sum mentioned in the execution with the charges.

And all executions duly served upon any such houses and lands, being returned into the clerk's office of the court out of which the same issued, and there recorded, shall make a good title to the party for whom they shall be so taken, his heirs and assigns forever.

Provided, nevertheless, That in case the said debtor or debtors, their heirs, executors or administrators, shall, any time within one year after such return of any execution into the clerk's office, go to the creditor or creditors, their executors, administrators or assigns, and tender and pay to them the full of the debt and charges, mentioned in such execution, and the interest for such debt and charges, from the time of the return of such execution into the clerk's office, as aforesaid ; every such debtor or debtors, their heirs, executors or administrators shall re-enter into such lands and houses by due process of law, and be invested to their former estate in their own proper right, as if such execution had never been levied upon the same.

Also where the goods or chattels belonging to the estate of any person deceased, shall not be sufficient to answer the just debts which the deceased owed, or legacies given, and the same appearing so to the judge of the probates of this province, the said judge is hereby empowered to license and

* *Offender* in edition 1771

authorize the executors or administrators of such estate to make sale of all or any part of the houses and lands of the deceased, so far as shall be necessary to satisfy the just debts which the deceased owed at the time of his death ; and legacies bequeathed in and by the last will and testament of the deceased ; and every executor, or administrator being so licensed and authorized, as aforesaid, shall, and may by virtue of such authority make, sign, and execute in the form of law deeds, and conveyances for such houses and lands as they shall so sell : which instruments shall make a good title to the purchaser, his heirs and assigns forever.

Provided, nevertheless, That any debt or debts due to the crown from any such estate, shall be first secured and paid out of the same.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That when any person or persons shall make sale, or other alienation of any lands, or tenements to him of right belonging, with intent to defeat, and defraud his creditors of their just debts, not *bona fide*, for good and valuable consideration truly paid or secured to be paid ; all such sales and alienations are to be deemed covenous and fraudulent, and shall be of none effect to bar any creditor from such debt as is to him owing.

SECT. 3. *And be it enacted, by the authority aforesaid,* That in real actions upon mortgage or bargain and sale with defeasance, which may be brought for trial in the superior court of judicature, or in the inferior court of common pleas, the judgment shall be conditional : that the mortgagor or vendor, or his heirs, executors or administrators, do pay unto the plaintiff such sum as the court shall determine to be justly due thereupon, within two months time after judgment entered up, for discharging of such mortgage or sale, or that the plaintiff recover possession of the estate sued for, and execution be awarded for the same.

SECT. 4. *And be it further enacted, by the authority aforesaid,* That when any creditor or creditors shall recover judgment in any of his Majesty's courts for any sum or sums of money, and costs of suit, and the debtor shall not satisfy the judgment in money, or other estate, to the acceptance of the creditor, he shall have execution thereon, and deliver the same to the sheriff of this province, where the debtor's land and houses lie, and are being, who shall cause three appraisers to be chosen, one by the creditor or creditors, another by the debtor or debtors, if he or they so please, and the third by the sheriff ; and having taken their oaths before any justice of the peace, faithfully and impartially to appraise such lands and tenements as shall then be shewed them, as the estate of such debtor or debtors, they shall appraise the same to satisfy the execution with the officers fees ; and set out such lands and tenements by metes and bounds, and the sheriff shall thereupon deliver possession and seizin

thereof to such creditor or creditors, or his or their attorney, which being returned and recorded shall be a good title to such creditor or creditors, saving equity by redemption, as by law is provided. And when it happens that lands and tenements cannot be divided, and set out by metes and bounds, as aforesaid, then such sheriff shall extend such execution upon the rent of such lands and tenements, and give seizin thereof to such creditor or creditors, or his or their attorneys, and cause the tenant or tenants thereof to attorn and become tenant or tenants of such creditor or creditors, and to pay their rents to him or them accordingly; or upon refusal thereof to turn such tenant or tenants out of the possession thereof, and give livery, seizin and possession of the same to such creditor or creditors, to hold and enjoy such lands and tenements till such judgment, interest, and fees be fully satisfied and paid, reserving thereout the widow's thirds or dower, if any be.

Provided always, That it shall and may be lawful for any such debtor or debtors, or his or their agent or attorney, at any time or times before such judgment, interest and charges be fully satisfied, to tender and pay to such creditor or creditors the full of his debt, interest and charges, who is hereby obliged to accept thereof and surrender up to such debtor or debtors, his agent or attorney, such lands and tenements, and deliver up quiet and peaceable possession thereof: Any law, usage or custom to the contrary notwithstanding.

AN ACT for the more speedy recovery of small debts, and to save the cost usually attending the recovery thereof, in the usual course of the law; and to secure the returns of Execution served on real estates. Passed Dec 28, 1770.

WHEREAS the common and ordinary method of recovering small debts, by actions triable by justices of the peace, and appeals afterwards sustained by the inferior court thereon, often increases the cost beyond the debt, and proves very burdensome to poor debtors; For prevention whereof,

SECT. 1. *Be it enacted by the governor, council and assembly,* That any person or persons, who shall voluntarily and without any undue influence, personally appear, before any justice of the peace, for said province, and confess that he, she or they do justly owe, and stand indebted to any other person or persons, in any sum not exceeding *five pounds*, and that such person or persons, consent that a record thereof should be made, and execution be issued immediately, or suspended for such time, as shall be agreed by the parties, debtor and creditor, the justice is hereby directed and authorized, to enter and make a record of such confession and agreement, and to order the party so confessing, to sign the

same; and the justice shall issue an execution in favour of the creditor, agreeable to such record; and if such confession shall be made after legal process shall be issued and returned for trial, the justice shall tax the legal cost for the creditor, so far, and issue the execution for the same, with the sum so acknowledged to be due. And the evidence of the demand shall be cancelled, by the said record, and the justice is directed to express in his record, the grounds of the demand, and shall write on the evidence of the demand that judgment was given by him, at such time, by confession of the debtor for that demand.

SECT. 2. *And be it further enacted*, That such execution may be served on the debtor's person or estate, real or personal, in the same manner as executions issued by award of the inferior or superior courts, which shall also be duly returned, and the return entered under the judgment on which it was issued.

SECT. 3. *And it is further enacted*, That all executions that shall be served and satisfied by being levied on any real estate, shall be recorded in the clerk's office, as is already provided by law, and by the justice of the peace when issued by him, as aforesaid, and the plaintiff therein mentioned, shall also cause the same to be entered, and recorded at length with the return, in the registry, or records of deeds, of conveyance of real estates, and the original execution, afterwards returned into the office from whence it issued, and copies from either shall be admitted as evidence, and have the same operation, as copies from the clerk's office have heretofore had, in any trial of the title of such estate, wherein such executions and returns shall be judged necessary and proper, provided the original is so recorded. And the fees to be received in these cases, shall be regulated by the table of fees already provided, excepting that the justice's fee for taking the confession and making the record as aforesaid, shall be *two shillings* only, and any constable under oath is hereby enabled, to serve any of the executions which shall be issued, in pursuance of this act, by any of his majesty's justices of the peace.

And in the form of the execution, issuable by virtue of, and agreeable to this act, the word estate, may be inserted in the execution, instead of the words goods and chattels, and make any other alteration in the form of an execution, to conform to this act.

This act to continue and be in force for the term of two years, and no longer.

AN ACT to revive and continue in force sundry acts expired or near expiring.

Passed June
2, 1772.

WHEREAS an act, entitled, an act to enable the court of general sessions of the peace, to grant as many tavern keepers in each town, parish and precinct, within this province, as they shall judge convenient; also, an act to enable the several towns and parishes, in this province, to choose persons at their respective general meetings, to examine and seize bread under the weight by law established: an act to preserve the fish in Piscataqua river; an act for the more speedy recovery of small debts and to save the loss* usually attending the recovery thereof, in the usual course of the law, and to secure the returns of executions served on real estate, were laws found to be useful to the people of this province; Therefore,

Be it enacted by the governor, council, and assembly,
That all the acts and laws aforesaid, expired, be, and hereby are revived, and continued to be in full force, and shall be so adjudged and taken, for the term of five years, from the passing of this act; and such of said acts as are still in force, but within a short time of expiring, be also revived and continued in full force, for the term aforesaid.

See act, p. 469, for the re-establishing the general system of laws heretofore in force in this state.

* So in edition 1772.

ACTS

RESPECTING THE SETTLEMENT OF TESTATE AND INTES- TATE ESTATES, AND RESPECTING PARTITION.

Passed 5
Geo. 1

AN ACT for preventing of Frauds and Perjuries.

FOR the prevention of many fraudulent practices which are commonly endeavoured to be upheld by perjury, and subornation of perjury:

SECT. 1. *Be it enacted and ordained by his excellency the governor, council, and representatives, in general assembly convened, and by the authority of the same, That* from and after the last day of June, in this present year, seventeen hundred and nineteen, all leases, estates, interests of freehold, or term of years, or any uncertain interest of, in, or out of, any messuages, lands, tenements, or hereditaments, made or created by livery and seizin only, and not put in writing, and signed by the parties, so making or creating the same, or their agents thereto lawfully authorized by writing, shall have the force and effect of leases, or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect; any consideration for making any such parole leases or estates, or any former law, or usage to the contrary notwithstanding.

Except, nevertheless, All leases not exceeding the term of three years from the making thereof; whereupon the rent reserved to the landlord, during such term shall amount unto two third parts of the full improved value of the thing demised.

And moreover, That no leases, estates, or interests, either of freehold, or term of years, or any uncertain interest of, in or out of, any messuages, lands, tenements, or hereditaments, shall at any time after the said last day of June be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

SECT. 2. *And be it further enacted, by the authority aforesaid, That* from and after the said last day of June, no action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate. (2.) Or whereby to charge the defend-

and upon any special promise to answer for the debt, default, or miscarriages of another person. (3.) Or to charge any person upon an agreement made upon consideration of marriage. (4.) Or upon any contract or sale of lands, tenements or hereditaments, or any interest in, or concerning them. (5.) Or upon any agreement that is not to be performed within the space of one year from the making thereof. (6.) Unless the agreement upon which such action shall be brought, or some memorandum or note thereof be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That from and after the said last day of June, all devises and bequests of any lands, or tenements, shall be in writing, and signed by the party so devising the same, or by some other person in his presence, and by his express direction; and shall be attested and subscribed in the presence of the said devisor, by three or four credible witnesses, or else shall be utterly void, and of none effect.

And moreover, No devise in writing, of lands, tenements, or hereditaments, or any clause thereof, shall at any time after the said last day of June, be revocable, otherwise than by some other will or codicil, in writing, or other writing declaring the same, or by burning, cancelling, tearing, or obliterating the same by the testator himself, or in his presence, and by his direction and consent.

(2.) But all devises and bequests of lands and tenements, shall remain and continue in full force until the same be burnt, cancelled, torn or obliterated by the testator, or by his direction in manner aforesaid; or unless the same be altered by some other will or codicil in writing; or other writing of the devisor, signed in the presence of three or four witnesses, declaring the same: any former law or usage to the contrary notwithstanding.

SECT. 4. *And be it further enacted, by the authority aforesaid,* That from and after the said last day of June, all declarations or creations of trusts, or confidences of any lands, tenements and hereditaments, shall be manifested and proved by some writing, signed by the party who is by law enabled to declare such trust, or by his last will in writing; or else they shall be utterly void, and of none effect.

Provided always, That where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result, by the implication or construction of law to be transferred or extinguished by an act or operation of law, then, and in every such case, such trust or confidence shall be of the like force and effect, as the same would have been if this act had not been made; any thing herein before contained to the contrary notwithstanding.

SECT. 5. *And be it further enacted,* That all grants and assignments of any trust or confidence, shall likewise be in

writing, signed by the party granting or assigning the same, by such last will or devise ; or else shall be utterly void and of none effect.

SECT. 6. *And be it further enacted, by the authority aforesaid,* That from and after the said last day of June, no contract for the sale of any goods, wares, and merchandize for the price of *ten pounds*, or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest, to bind the bargain, or in part of payment ; or that some note or memorandum in writing of the said bargain, be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

And for prevention of fraudulent practices in setting up nuncupative wills, which have been the occasion of much perjury :

SECT. 7. *Be it enacted, by the authority aforesaid,* That from and after the said last day of June, no nuncupative will shall be good where the estate thereby bequeathed shall exceed the value of *thirty pounds*, that is not proved by the oaths of three witnesses at the least, that were present at the making thereof ; nor unless it be proved, that the testator at the time of pronouncing the same, did bid the persons present, or some of them bear witness, that such was his will, or to that effect : nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or their habitation, or dwelling, or where he or she hath been resident for the space of ten days, or more, next before the making of such will ; except where such person was surprized or taken sick, being from his own home, and died before he returned to the place of his or her dwelling.

SECT. 8. *And be it further enacted,* That after six months passed, after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony or the substance thereof, were committed to writing within six days after the making the said will.

SECT. 9. *And be it further enacted,* That no letters testamentary, or probate of any nuncupative will, shall pass the seal of any court, till fourteen days at the least, after the decease of the testator be fully expired ; nor shall any nuncupative will be at any time received to be proved, unless process have first issued to call in the widow, or next of kindred to the deceased, to the end they may contest the same, if they please.

SECT. 10. *And be it further enacted,* That no will in writing concerning any goods or chattels, or personal estate, shall be repealed ; nor shall any clause, devise, or bequest therein be altered or changed by any words, or will, by word of mouth only, except the same be in the life of the testator,

committed to writing, and read to the testator, and allowed by him, and proved to be so done, by three witnesses at the least.

Provided always, That notwithstanding this act, any soldier being in actual military service; or any mariner or seaman, being at sea, may dispose of his moveables, wages, and personal estate, as he or they might have done, before the making of this act.

Repealed by act 20th June, 1792. p. 477.

The four last sections are taken from the English statute of frauds and perjuries, 29 Cha. II. c. 3. sections 20, 21, 22 and 23, and are copied into the statute relative to the attestation of wills, p. 203, and compose the four first sections of that act.

AN ACT providing for Posthumous Children.

Passed 15
Ann.

FORASMUCH as it often happens that children are not born till after the death of their fathers, and also have no provision made for them in their wills;

SECT. 1. *Be it therefore enacted, by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same*, That as often as any child shall happen to be born after the death of the father, without having any provision made in his will, every such posthumous child shall have right and interest in the estate of his or her father, in like manner, as if he had died intestate; and the same shall accordingly be assigned and set out, as the law directs, for the distribution of the estate of intestates.

And whereas through the anguish of the deceased testator, or through his solicitous intention, though in health, or through the over-sight of the scribe, some of the testator's children are omitted and not mentioned in the will, though born in the life time of their parents:

SECT. 2. *Be it therefore enacted, by the authority aforesaid*, That any child or children, not having a legacy given them in the will of their father or mother, every such child shall have a proportion of the estate of their parents, given and set out unto them, as the law directs, for the distribution of the estates of intestates.

Provided such child or children have not had an equal proportion of his estate bestowed on them by the father in his life time.

And whereas it sometimes happens that a man having formerly made his will, doth afterwards marry a wife, and then dies; and the will comes to be proved to the injury of such wife: In all such cases the widow shall have such proportion of her late husband's estate assigned her, as if he had died intestate, as the law directs, for the distribution of the estate of intestates: any law, usage or custom to the contrary notwithstanding.

Repealed by act 20th June, 1792. p. 475.

This act was disallowed soon after it was passed, but was not signified to the government till an additional act was passed and sent home in 1769. Which additional act does not appear in the records. It was no doubt disallowed.

Passed 13
Ann.

AN ACT relating to Executors and Administrators.

FOR better preventing of executors or administrators doing of wrong, or falsifying the trust in them reposed ;

SECT. 1. *Be it declared and enacted, by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same, That henceforth every executor named in any will, taking upon him that charge, by proving such will within the space of three months next after probate thereof, (or at such further or longer time, as the judge of probate shall see meet to allow, the circumstances of any estate requiring the same) shall exhibit into the register's office, upon oath, a full and true inventory of the whole estate of the deceased, so far as is then come to his hands and knowledge, and shall add thereto, what, and so much as may further afterwards appear, or otherwise shall give bond, with one or more sufficient sureties, to pay the debts and legacies of the testator ; on pain of forfeiting five pounds per month for every month's neglect thereof afterwards.*

Provided, nevertheless, That in wills where after the payment of debts, and of any certain particular legacy or legacies, the residue or remainder of the estate is bequeathed generally to any one or more persons, other than the executors themselves ; in every such case an inventory of the estate shall be presented upon oath as aforesaid, and no bond be accepted in lieu thereof ; and the executor shall be liable to accopt as administrators are by law obliged to do.

And any executor being a residuary legatary, may bring his action of accopt against his co-executor or executors of the estate of the testator in their hands : and may also sue for, and recover his equal and rateable part thereof ; and any other residuary legatary shall have like remedy against the executors.

SECT. 2. *And be it enacted, by the authority aforesaid, That all writs of attachment and execution, shall run only against the goods or estate of the party deceased, in the hands of the executor or administrator, and not against their bodies ; nor shall any executor or administrator be held to special bail upon mesne process, nor his own proper goods or estate be seized, or his person be arrested or taken in execution for the debts or legacies of the testator or intestate ; but upon suggestion of a waste, and return made by the sheriff nulla bona or devastavit, in which case a scire facias shall be issued out of the clerk's office of the same court, against such executor or administrator ; and scire feci being returned, if the executor or administrator shall make default of appearance, or coming in shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him of his own proper goods and estate, to the value of such waste, where it can be ascertained, and oth-*

erwise for the whole sum recovered, and for want of goods or estate against his body.

SECT. 3. *And be it further enacted, and declared,* That every executor and administrator, shall make payment of the debts and legacies of the testator or intestate in specie, if such he hath, as assets in his hands; and if he hath not the same in kind, he shall expose the estate to the creditor or legatary; to take his satisfaction thereof* at his election and due equal rate and value, by appraisers then to be indifferently named and sworn. And where judgment and execution shall be awarded for any debt or legacy to be paid in money, and the executor or administrator hath not money of the testator's or intestate's, as assets in his hands, the sheriff shall levy the goods or estate of the deceased, and expose the same to a publick and open sale for money, at the best rate and value that he can, and thereout pay such legacy or debt, and his own fees, with the necessary reasonable charges arising on the sale, and return the overplus (if any be) to the executor or administrator: or else shall pay and satisfy the creditor or legatary out of the goods or estate levied, if he see cause to accept the same at the value in money, upon a due and equal appraisement made by sufficient persons upon their oaths, to be indifferently named and appointed for that purpose.

Repealed by act Feb. 3, 1789. p. 202.

* Edition 1771 *hereof*.

AN ACT for the settlement and distribution of the Estates of Intestates.

Passed 4
Geo. 1

WHEREAS estates in these plantations do consist chiefly of lands, which have been subdued and brought to improvement by the industry and labour of the proprietors, with the assistance of their children; the younger children generally having been longest, and most serviceable unto their parents in that behalf, who have not personal estate to give out unto them in portions, or otherwise to recompense their labour;

SECT. 1. *Be it therefore enacted and ordained by the governor, council and representatives, convened in general assembly, and by the authority of the same,* That every person lawfully seized of any lands, tenements or hereditaments within this province, in his own proper right in fee simple, shall have power to give, dispose, and devise as well by his last will and testament in writing, as otherwise by any act executed in his life, all such lands, tenements, and hereditaments, to, and among his children, or others, as he shall think fit at his pleasure. And if no such disposition, gift or devise be made by the owner of any such lands, tenements and hereditaments, the same shall be subject to a

division, with his personal estate, and be alike distributed according to the rules herein after expressed, for intestate estates.

And when, and so often as it shall happen, that any person dies intestate, administration of such intestates, goods, and estate shall be granted unto the widow, or next of kin unto the intestate, or both, as the judge for probate of wills, and granting of administrations shall think fit, who shall thereupon take bond with sureties in manner as is directed by the statute of the twenty-second and twenty-third of *Charles* the second. And shall and may proceed to call such administrators to account for, and touching the goods of the intestate; and upon due hearing and consideration thereof, (debts, funeral, and just expenses of all sorts being first allowed) the said judge shall, and hereby is fully empowered to order and make a just distribution of the surplusage, or remaining goods and estate, as well real as personal, in manner following: *That is to say*, one third part of the personal estate to the wife of the intestate forever, besides her dower or thirds in the houses and lands during life; where such wife shall not be otherwise endowed before marriage: and all the residue of the real and personal estate, by equal portions, to and among his children, and such as shall legally represent them, (if any of them be dead) other than such children, who shall have any estate by settlement of the intestate in his life-time, equal to the others' shares; children advanced by settlement, or portions not equal to the others shares, to have so much of the surplusage, as shall make the estate of all to be equal, except the eldest son then surviving, where there is no issue of the first born, or of any other elder son, who shall have two shares, or a double portion of the whole: and where there are no sons, the daughters shall inherit as coparceners. The division of the houses and lands to be made by five sufficient freeholders, upon oath, or any three of them, to be appointed and sworn by the judge for that end; unless where all the parties interested in any estate, being legally capable to act, shall mutually agree of a division among themselves, and present the same in writing under their hands and seals; in which case such agreement shall be accepted, and allowed for a settlement of such estate, and be accounted valid in law, being acknowledged by the parties subscribing before the judge, and put upon record.

Provided, nevertheless, That where any estate in houses and lands cannot be divided among all the children without great prejudice to, or spoiling of the whole, being so represented and made to appear unto the said judge, the judge may order the whole to the eldest son, if he accept it, or to any other of the sons successively, upon his refusal, he paying unto the other children of the deceased, their equal and proportionable parts or shares of the true value of such houses and lands, upon a just appraisement thereof to be

made by three sufficient freeholders, upon oath, to be appointed and sworn, as aforesaid ; or giving good security to pay the same in some convenient time, as the said judge shall limit, making reasonable allowance in the interim, not exceeding six per cent. per annum. And if any of the children happen to die, before he or she come of age, or be married, the portion of such child deceased, shall be equally divided among the survivors. And in case there be no children, nor any legal representative of them, then one moiety of the personal estate shall be allotted to the wife of the intestate forever ; and one third of the real estate for term of life. The residue both of real and personal estate, equally to every of the next of kin of the intestate in equal degree, and those who legally represent them : no representatives to be admitted among collaterals after brothers and sisters children. And if there be no wife, all shall be distributed among the children ; and if no child, to the next of kin to the intestate in equal degree, and their legal representatives, as aforesaid ; and in no other manner whatsoever. And every one to whom any share shall be allotted, shall give bond with sureties before the said judge of probate, if debts afterwards be made to appear, to refund and pay back to the administrator, his or her rateable part thereof, and of the administrator's charges ; the widow's thirds or dower in the real estate at the expiration of her term, to be alike divided, as aforesaid : saving to any person aggrieved at any order, sentence or decree made for the settlement and distribution of any intestate estate, their right of appeal unto the governor and council ; every person so appealing, giving security to prosecute the appeal with effect.

SECT. 2. *Be it further enacted, by the authority aforesaid,* That if any executor or executors of the will of any person deceased, knowing of their being so named and appointed, shall not, within the space of thirty days next after the decease of the testator, cause such will to be proved, and recorded in the register's office of this province, or present the said will, and declare his or her refusal of the executorship ; every executor so neglecting of his or her trust and duty in that behalf, without just excuse made and accepted for such delay, shall forfeit the sum of *five pounds* per month, from and after the expiration of the said thirty days ; until he or she shall cause probate to be made of such will, or present the same, as aforesaid. Every such forfeiture to be had and recovered by action or information in the inferior court of pleas in this province ; and to be disposed of, one moiety thereof to the use of the poor of the town where the deceased person last dwelt, and the other moiety to him or them that shall inform and sue for the same. And upon such refusal of the executor or executors, the judge shall commit administration of the estate of the deceased, *cum*

testamento annexo, unto the widow, or next of kin to the deceased, and upon their refusal, to one or more of the principal creditors, as he shall think fit.

And if any person or persons shall alienate or embezzle any of the goods or chattels of any person deceased, before he or they have taken out letters of administration, and exhibited a true inventory of all the known estate of the party deceased : every person or persons so acting, shall stand chargeable, and be liable to the actions of the creditors, and other persons grieved, as being executors in their own wrong. And the judge shall cause a citation to be made out unto the widow, or next of kin, and upon their neglect of appearance, or refusal, may commit administration of any such estate to some one or more of the chief creditors, if accepted by them, or others, as he shall think fit, upon their refusal.

SECT. 3. *And it is enacted, by the authority aforesaid,* That the right of appeal which is saved to any party grieved at the sentence of the judge of probate in the settlement or distribution of any intestate estate, shall, to all intents and purposes, extend and be taken, and construed to extend to any order, decree, or denial that shall at any time be made and given by the judge of probate, referring to the approbation and allowance of any will, grant of administration, or other matter whatever.

SECT. 4. *And further it is enacted, and declared,* That the judge of probates in this province, when and so often as there shall be occasion, be, and hereby is empowered to allow of guardians that shall be chosen by minors of fourteen years of age ; and to appoint guardians for such as shall be within that age, taking sufficient security of all such guardians, for the faithful discharge of their trust, according to law ; and to accopt either to the judge or minor, when such minor shall arrive at full age, or at such other time as the judge upon complaint to him made, shall see cause.

Repealed by act Feb. 3, 1789. p. 214.

Passed Feb.
12, 1774.

*AN ACT in further addition to the laws of this Province
for the settlement of Estates.*

WHEREAS it often happens that persons die seized and possessed of land and other real estate, lying and being in several counties, in this province, and in such cases it hath been disputed, whether the person having the right of administration, or the executor of the will of the deceased ought not to apply to the several judges of probate in the respective counties where such estate is situated, for a settlement and distribution of the same, by means whereof great inconveniences and costs have arisen ;

Therefore,

Be it enacted by the governor, council and assembly, That when it shall happen that any person shall die seized

of land or other real estate, lying and being in several counties, within this province, the judge of probate for any such county where the deceased was an inhabitant at the time of his death, shall have full power and authority to make a settlement and distribution of the whole estate, both real and personal, of such deceased person, in all the several counties in this province where the same lays, in the same manner, and by the same rules as are already by law prescribed.

And the like power and authority is hereby granted to the several judges of probate in this province, with respect to any estate not already settled.

Provided nothing in this act shall extend, or be construed to extend, or in any wise affect any estate already settled.

And when it shall happen that any person dies, who is or was not an inhabitant at the time of his death, or dies out of the province, having an estate lying and being in several counties in this province, the judge of probate of the county where any part of the estate lies (at the election of the party whose right it is to prove the will of the testator, or to have administration of the estate) is hereby authorized to take the proof of said will, or grant administration of said estate, and make a full and final settlement and distribution thereof.

This act to be in force for three years and no longer.

See act of 9th April, 1777. p. 469, Appendix.

AN ACT for the equal distribution of Insolvent Estates. Passed 4 Geo. 1.

SECT. 1. **B**E it enacted by the governor, council, and representatives, in general assembly convened, and by the authority of the same, That when the estate of any person deceased, shall be insolvent or insufficient to pay all just debts which the deceased owed, the same shall be set forth and distributed to and among all the creditors in proportion to the sums to them respectively owing, so far as the said estate shall extend: saving that the debts due to the crown, the sickness and necessary funeral charges of the deceased, are to be first paid. And the executor or administrator appointed to any such insolvent estate, before payment to any be made, except as aforesaid, shall represent the condition and circumstances thereof unto the judge for probate of wills, and granting of administrations; and the said judge shall nominate and appoint two or more fit and indifferent persons to make a true and equal appraisement of such estate, and administer an oath to them for that purpose: and shall also nominate and appoint two or more fit persons to be commissioners, with full power to receive and examine all claims of the several creditors, and how they are made out; and such

commissioners shall cause the times and places of their meetings to attend the creditors, for the receiving and examining their claims, to be made known and published by posting up the same in some publick places, in the shire town of this province, and the two next adjoining towns to the place where the deceased person last dwelt. And six, twelve, or eighteen months time, (as the circumstances of any estate may require) shall be allowed by the judge unto the creditors for bringing in their claims, and proving their debts ; at the end of which limited time, such commissioners shall make their report, and present a list of all the claims unto the said judge, who shall order them meet & compensate out of the estate for their care and labour in that affair. And the debts due to the crown, sickness, and necessary funeral charges, as is herein before provided, being first subducted, shall order the residue and remainder of the estate to be paid and distributed to and among the other creditors, that shall have made out their claims, in due proportion to the sums unto them respectively owing, according as the estate will bear ; saving unto the widow, if any be, her right of dower according to law, in the houses and lands of the deceased ; the widow's dower at the expiration of her term, to be also distributed among the creditors in a like proportion.

Provided, That notwithstanding the report of any such commissioners, or allowance thereof made, it shall and may be lawful to and for the executor, or administrator, to contest the proof of any debt at the common law.

And no process in law, except for debts due to the crown, sickness and funeral charges, shall be allowed against the executor or administrator of any insolvent estate, so long as the same shall be depending, as aforesaid.

And whatsoever creditor shall not make out his or her claims, with such commissioners before the full expiration of the limited time, such person shall be for ever after debarred of his or her debt ; unless he or she can find some further estate of the deceased's, not before discovered, and put into the inventory.

SECT. 2. *And be it further enacted, by the authority aforesaid*, That every judge for probate of wills, and granting administration, within this province, be, and hereby is fully authorized and empowered to call before him, and to require and administer an oath unto any person or persons probably suspected by any executor or administrator to have concealed, embezzled, or conveyed away any of the money, goods, or chattels, left by the testator or intestate, for the discovery of the same : And in case any such suspected person was betrusted by the person deceased, attended upon, or was otherwise conversant with, or near unto him in the time of sickness, or left in possession of the estate, whereby to strengthen and make the suspicion more violent, and shall refuse to clear and acquit him or herself upon oath, it shall

and may be lawful for, and the judge is hereby empowered to commit such person, so refusing to swear, unto the gaol of this province, there to remain until he or she shall comply to discharge him or herself upon oath, as aforesaid, or be released by consent of the executor or administrator.

Saving unto any person aggrieved at any sentence, order or decree made by the judge of probate, liberty of an appeal unto the governor and council; such appellant giving bond in a reasonable sum, with sufficient security to prosecute his appeal with effect, and to abide and perform the determination that shall be made thereupon.

Repealed by act 20th June, 1792. p. 476.

AN ACT in addition to an act, entitled, "An act for the equal distribution of insolvent estates." Passed Nov. 11, 1784.

WHEREAS no provision is made by said act for the sale of the reversion of the estate, in which the widow of the deceased has dower, the want of which, often lessens the value of the rest of such estate, retards the settlement thereof, and renders a second distribution of such insolvent estate among the creditors necessary: all which would be prevented, if the reversion of any such estate, wherein the widow holds, or may hold dower, might be sold at the same time, with the other real estate of the deceased;

Therefore,

Be it enacted by the senate and house of representatives, in general court convened, That the reversion of any such insolvent estate, wherein the widow has, or may have dower, shall, and may be subjected to sale for, and towards the payment of the debts and demands against any such deceased person or persons, and may be sold in like manner as the rest of such real estate may be by virtue of said act.

Repealed by act 20th June, 1792. p. 484.

AN ACT for the partition of Lands, and the recovery of Legacies. Passed 13 Ann

SECT. 1. *BE it enacted by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same,* That all persons having or holding, or that shall hereafter have, or hold any lands, tenements, or hereditaments, as coparceners, joint tenants, or tenants in common, may be compelled by writ of partition, at the common law, to divide the same, where the parties cannot agree to make partition thereof by themselves.

SECT. 2. *And it is further enacted, by the authority aforesaid, That where any certain legacy is or shall be bequeathed and given by any person, in his or her last will and testament; as also where any residuary or uncertain legacy, is or shall by the account of any executor be reduced to a certainty; every such legacy or legacies, as aforesaid, may be sued for, and recovered at the common law: Any law, usage, or custom to the contrary notwithstanding.*

Repealed by act 20th June, 1792. p. 475.

Passed 6
Geo. 3.

AN ACT for a more easy and expeditious method of making Partition of Land or other real Estate held in common.

WHEREAS petitions are often presented to the general assembly for private acts, to authorize partition and division of lands, or other real estate to be made in a summary way, to avoid the expense and delay of making the same by a jury, where minors or others under any disability of making such partition by mutual consent and deed are interested, whereby much time of the general assembly is taken up in attention to private affairs:

For remedy whereof:

Be it enacted by the governor, council and assembly, That the judge of the probate of wills, and for granting letters of administration on the estates of persons dying intestate within this province, be, and hereby is authorized to cause a division or partition of any lands or other real estates in this province, held in common and undivided, where the persons interested or any of them so holding such estate, are minors, or under any disability to make partition thereof by deeds, by five freeholders upon oath, upon the application of, or in behalf of any party interested, in the same manner or form as he is by law authorized to do in cases of the division and settlement of the real estates of persons dying intestate; which division and partition being so made, and returned to the said judge, and by him allowed and approved, shall be adjudged a good partition, and binding to all parties.

Provided, due notice be given to all parties interested, by sending the same directly to them, or causing an advertisement thereof to be printed in some publick newspaper, most likely to come to the knowledge of those concerned, three weeks successively, of such application, that they may be present, and attend the making such partition, or shew cause, if any they have, why the same ought not to be made or allowed. And also, that guardians or agents be first appointed to represent and act for minors or others disabled as aforesaid, or who cannot attend the said division. And any

party aggrieved at any matter or thing done or allowed by said judge relative to the premises, may appeal from the decree or order for performance or allowance aforesaid, to the court of supreme probate for said province.

Provided, such appeal be claimed and taken within six months from the passing such decree, and not afterwards.

Provided, nevertheless, That this act shall not take effect or be in force until his majesty's royal pleasure thereon be known.

AN ACT in addition to, and amendment of "An act for the more expeditious method of making partition of land and other real estate held in common." Passed June 20, 1786.

WHEREAS doubts having arisen whether partition of real estate in joint tenancy or coparcenary can be made in the summary mode, the act directs for the partition of land and other real estate held in common and undivided; and as the said act doth not empower the judge of probate in any case to set off in severalty to any tenant in common, joint tenants or parcener, the part to such owner belonging, without partition of the whole, which is found to be often unnecessary, and sometimes inconvenient:

Be it enacted by the senate and house of representatives, in general court convened, That the judge of probate in said act mentioned, may, and shall upon application of any tenant in common, joint tenant or parcener of real estate, order the part to him or her belonging to be divided and set off in severalty, without ordering a partition of the whole among all the owners thereof, which severance of any one owner's part being so made and accepted as the said act directs for the partition of land and real estate held in common and undivided, shall be good and valid.

And any person may appeal from the decree of said judge respecting the partition of such real estate, to the next supreme court of probate for the county wherein the same decree may be made, any time within six months from the time of pronouncing such decree.

The two last acts repealed by act Feb. 4, 1789. p. 221

AN ACT for avoiding and putting an end to certain doubts and questions, relating to the attestation of wills and codicils, concerning real estates, in that part of Great-Britain called England, and in his Majesty's Colonies and Plantations in America. Passed 25 Geo. 2. c. 6. Nov. 14, 1751.

WHEREAS by an act made in the twenty-ninth year of the reign of his late majesty king Charles the second, entitled,

an act for prevention of frauds and perjuries ; it is, amongst other things, enacted, that from and after the twenty fourth day of June, in the year of our Lord one thousand six hundred and seventy-seven, all devises and bequests of any lands or tenements devisable, either by force of the statute of wills, or by that statute, or by force of the custom of *Kent*, or the custom of any borough, or any other particular custom, shall be in writing, and signed by the party so devising the same, or by some other person in his presence, and by his express direction ; and shall be attested and subscribed in the presence of the said devisor, by three or four credible witnesses, or else they shall be utterly void and of none effect, which hath been found to be a wise and good provision : but whereas doubts have arisen who are to be deemed legal witnesses, within the intent of the said act ; therefore, for avoiding the same, *be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual, and temporal, and commons, in this present parliament assembled, and by the authority of the same.*

[The six first sections compose the 5, 6, 7, 8, 9, and 10 sections of the "act relating to the attestation of wills," passed February 16, 1791, and are reprinted in p. 203.]

SECT. 7. *Provided, always, and be it enacted, by the authority aforesaid, That* this act, or any thing herein contained, shall not extend, or be construed to extend, to the case of any heir at law, or of any devisee in a prior will or codicil of the same testator, executed and attested according to the said recited act, or any person claiming under them respectively who has been in quiet possession for the space of two years next preceding the sixth day of May, in the year of our Lord one thousand seven hundred and fifty-one, as to such lands, tenements, and hereditaments, whereof he has been in quiet possession as aforesaid ; and also, that this act, or any thing herein contained, shall not extend, or be construed to extend, to any will or codicil, the validity or due execution whereof hath been contested in any suit in law or equity commenced by the heir of such devisor, or the devisee in any such prior will or codicil, for recovering the lands, tenements, or hereditaments, mentioned to be devised in any will or codicil so contested, or any part thereof, or for obtaining any other judgment or decree relative thereto, on or before the said sixth day of May, in the year of our Lord one thousand seven hundred and fifty-one, and which has been already determined in favour of such heir at law, or devisee in such prior will or codicil, or any person claiming under them respectively, or which is still depending, and has been prosecuted with due diligence ; but the validity of every such will or codicil, and the competency of the witnesses thereto, shall be adjudged and determined in the same manner, to all intents and purposes, as if this act had never

been made; any thing herein before contained to the contrary thereof in any wise notwithstanding.

SECT. 8. *Provided always, nevertheless, and it is hereby declared,* That no possession of any heir at law, or devisee in such prior will or codicil as aforesaid, or of any person claiming under them respectively, which is consistent with, or may be warranted by or under any will or codicil attested according to the true intent and meaning of this act, or where the estate descended or might have descended to such heir at law, till a future or executory devise, by virtue of any will or codicil attested according to this act, should or might take effect, shall be deemed to be a possession within the intent and meaning of the clause herein last before contained.

And whereas in some of the *British* colonies or plantations in *America*, the said act of the twenty-ninth year of the reign of king *Charles* the second, has been received for law, or acts of assembly have been made, whereby the attestation and subscription of witnesses to devises of lands, tenements, and hereditaments have been required: therefore, to prevent and avoid doubts which may arise in the said colonies or plantations, in relation to the attestation of such devises of lands, tenements, or hereditaments;

SECT. 9. *Be it enacted, by the authority aforesaid,* That this act, and every clause, matter, and thing therein contained, shall extend to such of the said colonies and plantations, where the said act of the twenty-ninth year of the reign of king *Charles* the second, is by act of assembly made, or by usage received as law, or where by act of assembly or usage, the attestation and subscription of a witness or witnesses are made necessary to devises of lands, tenements, or hereditaments; and shall have the same force and effect in the construction of, or for the avoiding of doubts upon, the said acts of assembly, and laws of the said colonies and plantations, as the same ought to have in the construction of, or for the avoiding of doubts upon, the said act of the twenty-ninth year of the reign of king *Charles* the second in *England*.

Provided always, That as to cases arising in any of the said colonies or plantations in *America*, no such devise, legacy or bequest as aforesaid, shall be made null and void, by virtue of this act, unless the will or codicil whereby such devise, legacy, or bequest shall be given, shall be made after the first day of March, which shall be in the year of our Lord one thousand seven hundred and fifty three.*

* The 1st section relates to wills or codicils which shall be made after the 24th of June, 1752.—The 3d and 5th sections, to wills or codicils made, or which shall be made on or before the same 24th of June, and the 2d section to wills or codicils made or to be made.

ACTS

RESPECTING TOWNS, PASSED BEFORE 1791.

AN ACT for the better regulating of town and proprietary meetings.

Passed 4
Geo. 1.

WHEREAS by reason of the disorderly carriage of some persons in the said meetings, the affair and business thereof is very much retarded and obstructed ;

For preventing whereof,

SECT. 1. *Be it enacted by his excellency the governor, council and representatives, convened in general assembly, and by the authority of the same,* That at every such meeting, a moderator shall be chosen by a majority of votes, who shall be thereby empowered to manage and regulate the business of that meeting. And when it shall happen that any matters remain doubtful after a vote, the moderator is hereby directed and required, that the same be decided by the poll, if seven or more desire it, presently after the vote is called in question. In proprietary meetings the polls to be numbered according to their interest.

SECT. 2. *And be it further enacted,* That no person presume to speak before leave first obtained from the moderator, nor when any other is orderly speaking. And that all persons be silent at the desire of the moderator, under the penalty and forfeiture of *five shillings* for the breach of every such order. And if any person being by the moderator notified of such offence, shall still persist in the same, that then the moderator shall order such person to withdraw from the said meeting, and such offender upon his refusal thereof shall forfeit and pay the sum of *twenty shillings*.

The respective forfeitures to be recovered by the town treasurer, or selectmen of such town wherein any of the aforesaid offences are committed, before any one or more of his majesty's justices of the peace of this province, to be disposed of, the one half for the use of the poor of said town, the other half to the moderator.

SECT. 3. *And be it further enacted,* That when, and so often as ten of the freeholders of any town shall signify under their hands to the selectmen their desire to have any matter or thing inserted into a warrant for calling a town

meeting, the selectmen are hereby required so to insert the same in the next warrant they shall issue for the calling a town meeting. And that no matter or thing whatever shall be voted or determined but what is inserted in the warrant for calling said meeting.

Repealed by act June 20, 1792. p. 476.

AN ACT to enable Towns, Parishes, Villages and pro- Passed 4
prietors in common and undivided Lands, to sue and Geo. 1.
be sued.

FOR the better enabling towns, villages, trustees for schools, proprietors, and persons interested in common and undivided lands, to maintain, recover and defend their grants, lands, interests and estates ;

SECT. 1. *Be it enacted by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same,* That it shall and may be lawful for all and every the said persons, towns, villages, precincts, trustees for schools, and proprietors in common and undivided lands, grants and other estates, or interests whatsoever, to sue, commence and prosecute any suits or actions, in any courts proper to try the same, either by themselves, or their agents or attornies, to be appointed by such as have in them the major part of the interests : and in like manner to defend all such suits and actions as shall be commenced against them, or any of them.

SECT. 2. *And further be it enacted, by the authority aforesaid,* That all and every town, village and precinct, and proprietors in common and undivided lands, which shall have occasion to sue, or be sued, may at a meeting of the inhabitants of such town, village or precinct, or proprietors aforesaid, orderly warned by the major vote of such as shall meet, choose agents, or attornies to prosecute for, or defend them, such choice being certified by the clerk of such town, village, precinct or proprietors, or by such other person as they shall appoint.

And when any town, village, precinct, or proprietors, aforesaid, shall be sued, it shall be sufficient notice to oblige them to appear and answer, to leave a writ or summons with their clerk, or other principal inhabitant or proprietor, briefly declaring the case, fourteen days before the sitting of the court, where the case is to be heard, as in other actions is provided.

Repealed by act June 20th, 1792. p. 476.

AN ACT directing the admission of Town Inhabitants. Passed 4
Geo. 1.

FOR the better preventing of persons obtruding themselves on any particular town within this province, without orderly

admission by the inhabitants of such town, or selectmen thereof in manner as hereafter is expressed : and for remedying the manifold inconveniences, and great charge heretofore occasioned thereby : to the intent also, that the selectmen may more easily come to the certain knowledge of persons, and their circumstances, that come to reside, and sojourn in such town ;

SECT. 1. *Be it enacted by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same,* That every master of ship or other vessel, arriving in any port within this province, from any other country, land, island, colony or plantation, at the time of entering his ship or vessel with the naval-officer, for the time being, shall deliver to such officer a perfect list or certificate under his hand, of the christian and surnames of all passengers, as well servants as others brought in such ship or vessel, and their circumstances so far as he knows, on pain of forfeiting the sum of *five pounds*, to the use of the poor of the town or place where such passengers shall be landed, or sent on shore, for every passenger that he shall omit to enter his or her name in such list or certificate, upon conviction thereof before his majesty's justices in the court of general sessions of the peace within this province. And every justice of peace is hereby empowered upon complaint made by the selectmen of such town, or some of them, to convent such master before him, and to require and take sufficient security of him to appear and answer for his said offence, in manner as above-said ; such complainants also giving bond to prosecute their complaint.

SECT. 2. *And further it is enacted,* That when it shall happen any passenger so brought, to be impotent, lame, or otherwise infirm, or likely to be a charge to the place, if such person shall refuse to give security, or cannot procure sufficient surety or sureties to become bound for his saving the town from such charge ; in such case the master of the ship or vessel in which such person came, shall be, and hereby is obliged and required to carry or send him or her out of this province again, within the space of two months next after their arrival, or otherwise to give sufficient security as aforesaid to indemnify and keep the town free from all charge for the relief and support of such impotent, lame or infirm person, upon demand thereof made by the selectmen ; unless such person was before an inhabitant of this province ; or that such impotence, lameness or other infirmities befel or happened to him or her during the passage : And in such case, if they be servants, their masters shall provide for them, and others shall be relieved at the charge of the province.

And the justices of the general sessions of the peace are hereby empowered to enjoin and order the perform-

ance of what is herein before required of such master accordingly.

And the naval officer is likewise required to inform and notify all masters of ships and other vessels coming to him, to enter of the import of this act, and what is hereby enjoined and required of them, and not to admit an entry without such list or certificate of the names of the passengers (if any) or that the master give under his hand that he brought none. And such naval officer shall forthwith transmit all lists or certificates of passengers to the town clerk of such town, where the ship or vessel that brought them shall lay, that the selectmen may have knowledge of the same; and such town clerk is hereby required to lay all such lists or certificates returned to him, before the selectmen at their next meeting.

SECT. 3. *And be it enacted, by the authority aforesaid, That from and after the publication of this act, no person whatever coming to reside or dwell in any town in this province, other than freeholders and proprietors of land in such town, or those born, or that have served an apprenticeship there, and have not removed and become inhabitants elsewhere, shall be admitted to the privilege of elections in such town (though otherwise qualified) unless such person shall first make known his desire to the selectmen thereof, and obtain their approbation, or the approbation of the town, for his dwelling there.*

Nor shall any town be obliged to be at charge for the relief and support of any person residing in such town, in case he or she stand in need, that are not approved as aforesaid, unless such person or persons have continued their residence there, by the space of twelve months next before, and have not been warned in manner as the law directs, to depart and leave the town: any law, usage or custom to the contrary notwithstanding.

And if any person orderly warned to depart from any town whereof he or she is not an inhabitant, and being sent by warrant from a justice of peace unto the town whereto such person properly belongs, or to the place of his or her last abode, shall presume to return back, and obtrude him or herself upon the town so sent from, by residing there, every person so offending, shall be proceeded against as a vagabond.

Repealed by act June 20, 1792. p. 477.

AN ACT for regulating townships, choice of town officers, and setting forth their power.

Passed 5
Geo. 1.

SECT. 1. **B**E it enacted by the governor, council, and representatives, in general assembly convened, and by the authority of the same, That the bounds of all townships with-

in this province, shall be perambulated betwixt town and town, and marks renewed once in three years, by two of the selectmen of each town, or any other two men whom the selectmen shall appoint; the selectmen of the most ancient town to give notice unto the selectmen of the next adjacent towns, of the time and place of meeting for such perambulation, six days beforehand; on pain of forfeiting *five pounds*, by the selectmen of any town that shall neglect their duty, in any of the particulars abovesaid: two thirds thereof unto the use of the poor of such town, and the other third unto the selectmen of any of the next adjacent towns, that shall inform and sue for the same in the inferior court of common pleas, to be recovered by action or information.

SECT. 2. *And be it further enacted, by the authority aforesaid*, That each proprietor of lands lying unfenced, or in any common field, shall once in two years, on six days warning before given him by the next proprietor, or proprietors adjoining, run the lines, make and keep up the bounds between them, by sufficient mete stones: on pain that every party so neglecting or refusing shall forfeit the sum of *ten shillings*, one half to the party moving, and the other half to the use of the poor of the town: being convicted and convicted of such neglect or refusal, before any justice of the peace within this province, who is hereby empowered to hear and determine the same.

SECT. 3. *And further it is enacted, by the authority aforesaid*, That the proprietors of the common or undivided land within each town and precinct of this province, where the same have been heretofore stated, (each one's proportion being known) shall be, and hereby are empowered to order, improve, or divide in such way and manner, as shall be concluded and agreed upon by the major part of the interested, the voices to be collected, and accounted according to the interests. And the proprietors of all undivided or common lands not stated and proportioned as aforesaid, shall, and hereby are empowered to manage, improve, divide or dispose of the same, as hath been, or shall be concluded and agreed on by the major part of such proprietors. That no cottage or dwelling place in any town, shall be admitted to the privilege of any commonage for woods, timber and herbage, or any other the privileges which lie in common in any town or peculiar, other than such as were erected or privileged by the grant of such town or peculiar.

And whereas it hath been a continued practice and custom in the several towns within this province, annually to choose selectmen, or townsmen, for the ordering and managing the prudential affairs of such town, and other town officers, for the executing other matters and things in the laws, appointed by them to be done and performed.

SECT. 4. *Be it further enacted, by the authority aforesaid,* That the freeholders and other inhabitants of each town rateable at twenty pounds estate, to one single rate, beside the poll, shall sometime in the month of March annually meet, and convene together upon legal notice given by the constable or constables of such town, or such others as the selectmen, or townsmen, shall appoint, to give notice of such meeting and the time and place for the same; and by the major vote of such assembly then and there shall choose, three, five, seven, or nine persons, able and discreet, of good conversation, inhabiting within such town, to be selectmen, or townsmen, and overseers of the poor, where other persons shall not be particularly chosen to that office, which any town shall do, as they find it necessary and convenient; as also to nominate and choose a town clerk, who shall be sworn truly to enter and record all town votes, orders, grants, and divisions of lands made by such town, and orders made by the selectmen. A commissioner for assessments, constables, tythingmen, fence-viewers, clerks of the market, sealers of leather, and other ordinary town officers, with a committee to examine the selectmen's accompts, and assessors. And the town clerk, or two of the selectmen, shall forthwith make and give out unto the constable or constables of such town, a list of the names of those that shall be then chosen, to the office of town clerk, constables, tythingmen, clerks of the market, sealers of leather, and other officers of whom an oath is by law required, which constable or constables within the space of six days at furthest, shall summon each of them respectively to appear before the quarter sessions, if then sitting, or one of the next justices of the peace, to be sworn to the faithful discharge of their respective offices and trust; on penalty of *twenty shillings*, to the use of the poor of the town, to be paid by each constable neglecting his duty in that behalf, upon conviction thereof before one justice of the peace; and upon non-payment to be levied by distress: provided that no person in commission for any office, civil or military, church officer, or member of the house of representatives, for the time being, nor any other who hath served as constable within the space of sixty years, shall be chosen to the office of constable.

SECT. 5. *It is further enacted, by the authority aforesaid,* That the freeholders and inhabitants qualified, as in this act is mentioned, in each respective town, in any town meeting, orderly warned according to the usage of such town, or the major part so assembled; or the major part of the selectmen, having instructions given them in writing by the town for that purpose, be, and hereby are empowered from time to time, to make and agree upon such necessary rules, orders, and by-laws, for the directing, managing, and ordering the prudential affairs of such town, as they shall

judge most conducing to the peace, welfare, interest, and good order of the town and inhabitants thereof: and to annex penalties for the observance of the same, not exceeding *twenty shillings* for one offence: provided that they be not repugnant to the general laws of the province. And such orders and by-laws being presented unto the justices in quarter sessions, and approved of by them, shall be established and binding to all the inhabitants of the same town, where made; and the penalty for breach of them by any of the inhabitants, to be levied by warrant of distress, from any justice of the peace, before whom such offender shall be convicted to the use of the poor of such town.

SECT. 6. *And further it is enacted, by the authority aforesaid,* That the selectmen or townsmen chosen as aforesaid, in each town respectively, be, and hereby are empowered to assess the inhabitants, and others, resident within such town and the precincts thereof, and the lands and estate lying within the bounds of such town, in just and equal proportion as near as may be unto all town charges, each particular person according to his known ability and estate, such sum and sums of money as hath, or shall be ordered, granted and agreed upon, from time to time by the inhabitants in any town meeting regularly assembled, or the major part of those present at such meeting, for the maintenance and support of the ministry, schools, the poor, and for the defraying the other necessary charges arising within the said town; and thereof to make perfect lists under their hands, or the major part of them, setting down every person's name, and several proportion; and shall thereupon make out a warrant to be signed by the said selectmen, or the town clerk by their order, who are hereby respectively empowered thereto, directed unto the constable or constables of the said town, for the speedy levying and collecting of such assessments, and to pay in the same unto the selectmen, or to such person as they shall appoint or order, within the time thereby prefixt: and to make distress upon all such as shall neglect or refuse payment: and for want of goods or chattels, whereon to distrain, to seize the person, and to commit him to the common gaol of the province, there to remain until he pay the sum upon him assessed, as aforesaid, unless the same, or any part thereof, upon application made to the quarter sessions shall be abated; and if any person think himself overrated; and make it so appear to the selectmen, he shall be eased; and if they refuse, such person aggrieved may make his application to the quarter sessions who are hereby empowered to rectify the same. And each constable having a rate so committed to him to collect, shall give fourteen days notice to each person of whom he is to make collection of their proportion thereof, before he presume to make distress, unless it be of persons who he hath sufficient grounds to suspect are about removing out of such his town or precinct.

SECT. 7. *And it is further enacted, by the authority aforesaid,* That the selectmen or overseers of the poor in each town, where there are such chosen, and especially appointed for that service, are hereby empowered and ordered to take effectual care, that children, youth, and other persons of able body, living within the same town, or precinct thereof, not having estate otherwise to maintain themselves, do not live idly, or mispend their time in loitering, but that they be brought up, or employed in some honest calling which may be profitable to themselves, and the publick. And if any person or persons fit and able to work, shall refuse so to do, but loiter, and mispend his or her time, wander from place to place, or otherwise disorder themselves, and be thereof convicted before one or more of his majesty's justices of the peace, such person or persons shall by such justice or justices of the peace be sent to the house of correction, and at their entrance be whipped on the naked back, by the master of such house, or such others as he shall procure, not exceeding ten lashes, and be there kept to hard labour until he or she shall be discharged by said justice or justices, or the quarter sessions of the peace for this province. And it shall, and may be lawful for the overseers of the poor, or selectmen in each town, where there are no other men specially chosen, and appointed to be overseers of the poor, and they are hereby ordered with the assent of two justices of the peace to bind any poor children belonging to such town, to be apprentices where they shall see convenient: a man child until he shall come to the age of twenty-one years; and a woman child until she shall come to the age of eighteen years; or time of marriage; which shall be as effectual to all intents and purposes, as if any such child were of full age, and by indenture of covenant had bound him, or herself.

SECT. 8. *And it is further enacted, by the authority aforesaid,* That every person and persons, (except as in this act is before excepted) being duly chosen as aforesaid, to serve in the office of constable, who shall refuse to take the oath to that office belonging, and to serve therein, if he be able in person to execute the same, shall pay the sum of *five pounds* to the use of the poor of such town, shall forthwith declare his acceptance or refusal, on the like penalty of *five pounds*, to be by him paid down, or he ordered to prison, by a justice of the peace, and the town shall proceed to a new choice; and if such person refuse to pay down his fine, he shall be convened before the next sessions of the peace, who upon certificate under the hand of the town clerk, or two of the selectmen, that such person was legally chosen to the office of constable, and shewing no just cause to the sessions for his excuse, the justices shall order a warrant to be signed by the clerk of the peace, directed to the sheriff, or any of the constables then in being in such town,

to levy the said fine by distress, and sale of such offenders goods, returning the overplus, if any be, the said fine to be delivered unto the overseers of the poor, or selectmen, to the use of the poor of such town.

SECT. 9. *And be it further enacted, by the authority aforesaid,* That if any person or persons come to sojourn, or dwell in any town within this province, or precinct thereof, and be there received, and entertained by the space of three months, not having been warned by the constable, or other person whom the selectmen shall appoint for that end to leave the place, and the names of such persons with the time of their abode there, and when such warning was given them, returned unto the court of quarter sessions; every such person shall be reputed an inhabitant of such town, or precinct of the same, and the proper charge of the same in case, through sickness, lameness, or otherwise, they come to stand in need of relief, to be born by such town; unless the relations of such poor impotent persons in the line of father, or grandfather, mother, or grandmother, children or grandchildren be of sufficient ability; then such relations respectively shall relieve such poor person in such manner as the justices of the peace shall assess, on pain that every one failing therein, shall forfeit *thirty shillings*, for every month's neglect, to be levied by distress and sale of such offenders goods, by warrant from any two justices of the peace, *unus quorum*, within this province, *Provided, nevertheless,* This act shall not be understood of any person committed to prison, or lawfully restrained in any town, or of such as shall come, or be sent for nursing, or education, or to any physician or chyrurgeon, to be healed or cured; but the particular persons who receive and entertain any such shall be the town's security in their behalf, and be obliged to relieve and support them, in case of need, upon complaint made to the quarter sessions, who shall accordingly order the same.

SECT. 10. *And it is further enacted, by the authority aforesaid,* That any person, orderly warned, as aforesaid, to depart any town whereof he is not an inhabitant, and neglecting so to do by the space of fourteen days next after such warning given, may, by warrant from the next justice of the peace be sent and conveyed from constable to constable, unto the town where he properly belongs, or had his last residence at his own charge, if able to pay the same, or otherwise at the charge of the town so sending him.

SECT. 11. *And further it is enacted, by the authority aforesaid,* That when, and so often as there shall be occasion of a town-meeting for any business of publick concernment to the town there to be done, the constable or constables of such town by order from the selectmen or major part of them, or of the town clerk by their order, in each respective town within this province, shall warn a meeting of such

town, having order for the same in writing, on pain that every constable neglecting his duty in that respect, and being thereof convicted before one justice of the peace, shall forfeit the sum of *ten pounds* to the use of the poor of such town, and to be levied by distress, and sale of the offenders goods, by warrant from a justice of the peace upon neglect or refusal of payment. And in case the selectmen in any town shall unreasonably deny to call a town-meeting upon any publick occasion thereof, the same being complained of and made to appear by any thirty of the inhabitants, and freeholders of such town, unto two justices of the peace, *unus quorum*, such justices by their warrant directed to the constable or constables, may order a meeting of the inhabitants of such town, therein signifying the occasion thereof.

SECT. 12. *And it is hereby enacted, by the authority aforesaid,* That selectmen and assessors, and lot layers, as well as all other town officers to be legally chosen, as above is directed, shall have an oath administered unto them by one of his majesty's justices of the peace within this province, for the faithful discharge of the office which they are employed in; and every justice of the peace is hereby authorized to administer the same.

Repealed by act June 20, 1792. p. 477.

AN ACT in addition to, and for rendering more effectual an act, entitled, an act for regulating Townships, choice of Town Officers, and setting forth their power. Passed 17
Geo. 2.

WHEREAS in and by the said act, the several towns in this province are enabled to meet some time in the month of March annually, and to make choice of town officers for the year ensuing, who are invested with power and authority to discharge the duties of their respective offices, but no provision is made in the said act for filling any of said offices upon a vacancy by death or otherwise, before the expiration of the year from such choice, whereby great inconveniences often happen to particular towns and parishes:

For remedy whereof,

SECT. 1. *Be it enacted by his excellency the governor, council, and representatives, in general assembly convened, and by the authority of the same,* That any town, parish, or precinct within this province, that is by law enabled and authorized to choose officers as aforesaid, or that is invested with the usual powers, authorities and privileges of towns in this province, shall be, and hereby is authorized and empowered upon the vacancy of any office held by an officer, by law elective by the people, by the death of such officer or otherwise, agreeable to law, at a meeting of such persons as are qualified by law to vote in the ordinary town affairs, to choose any person or persons qualified as the law in such

cases directs, to fill up such vacancy or vacancies, as often as occasion shall require ; which officer or officers so chosen and qualified as the law directs, shall be empowered and authorized to take up the business appertaining to his office, where his immediate predecessor in said office left it, and to proceed to the full execution and discharge of the same, as fully to all intents and purposes as the same might have been done by the officer first chosen for that year in the said office. And the selectmen or other officers appointed by law to call meetings of such voters in the said towns, parishes or precincts as there shall be occasion, are hereby empowered to call meetings of such voters for the purpose aforesaid, as effectually as for any other intent and purpose, or upon any other occasion whatsoever.

SECT. 2. *And be it further enacted, by the authority aforesaid, That in such cases where there is a penalty inflicted on any person chosen to any such office at any of the said annual meetings, for refusing to accept or serve in the same, or concerning any matter or thing relating thereunto, the same penalties or forfeitures shall be inflicted, demanded and recoverable, and in the same manner to all intents and purposes with regard to any person or persons that shall be chosen as aforesaid, by virtue of this act.*

Repealed by act June 20, 1792. p. 478.

Passed Jan.
5. 1771

AN ACT to enable the inhabitants of such towns and parishes in this province as have not had a regular method to call town or parish meetings, or at present have no such method, to direct and establish a rule and method for that purpose.

WHEREAS it sometimes happens that the annual meetings of towns and parishes in the province have not been duly held, and no regular method is in force to revive and call a lawful meeting of the town or parish, and also in cases where a town or parish have never had a legal meeting, it may be of service to prescribe a rule for that, and the cases aforesaid :

Be it enacted, by the governor, council, and assembly, That in any of the cases aforesaid, on the application of ten of the freeholders, inhabitants of such town or parish, to any justice of the peace, whether an inhabitant of such town or parish, or not, made in writing, desiring that a meeting of the legal voters of such town or parish may be called for the choice of town or parish officers, (as the law directs) such justice shall be, and hereby is authorized and empowered to call a meeting of the voters of such town or parish, which he shall do by posting up a notification in some public place in such town or parish fifteen days before the time of holding such meeting, which notification shall mention the

time, place, and occasion of the designed meeting ; as also that application was made for the same in manner and form aforesaid, and such justice shall attend and govern the said meeting until a moderator shall be chosen, to govern the same.

Repealed by act June 20, 1792. p. 479.

AN ACT in addition to an act made in the fifth of the reign of king George the first, entitled, an act for regulating Townships, choice of Town Officers, and setting forth their power. Passed 11
Geo. 3.

WHEREAS in and by an act or law of this province made, and passed in the fifth year of the reign of king George the first, it is among other things enacted, That if any person or persons come to sojourn or dwell in any town within this province, or precinct thereof, and be there received and entertained by the space of three months, not having been warned by the constable or other person whom the selectmen shall appoint for that end, to leave the place, and the names of such persons with the time of their abode there, and when such warning was given them, returned unto the court of general sessions of the peace, every such person shall be reputed an inhabitant of such town or precinct of the same, to be relieved by such town, in case of need ; which time or space of three months is found to be too short for the purpose aforesaid, the selectmen in many instances not being able to discover such poor person or persons within that time ; For remedy whereof,

Be it enacted by the governor, council, and assembly, That from and after the first day of July next, no person or persons shall gain a settlement in any town or parish within this province by dwelling therein, without being warned out according to law, for any term of time less than one year.

Repealed by act June 20, 1792. p. 480.

AN ACT in addition to an act, directing the admission of Town Inhabitants. Passed 6
Geo. 3.
July 1, 1766

WHEREAS the said act has not sufficiently provided against persons secretly entertaining strangers in their houses, 'till they become inhabitants, which by another law of this province they are allowed to be in three months, by which means many persons become inhabitants of towns before they are known to live in the town by the officers, whose care it is to take notice of such matters :

For remedy whereof,

SECT. 1. *Be it enacted by the governor, council, and assembly,* That the inhabitants of the several towns within this province and parishes, having the privileges of towns,

who shall receive, admit, and entertain any person or persons, not being inhabitants of such towns or parishes, either as inmates, boarders or tenants, in the house where such person dwells, or in any other house whatsoever, within this province, or under any other qualifications whatsoever, for more than the space of twenty days, and shall not in writing under their hands, give an account to one or more of the selectmen, or the town clerk of such town, of all such person or persons so received, admitted or entertained by them, with the time they first received them, and the place from whence they last came, together with their circumstances as far as they can, shall, for every such neglect forfeit and pay the sum of twenty shillings to be recovered by bill, plaint or information, before any justice of the peace, or in any of his majesty's courts of record within this province, the one half of the said fine to be employed to and for the use of the poor of the town or parish where such offence shall be committed, the other half to him or them that shall inform and sue for the same, and they shall be liable to answer all charges that may arise in said town or parish, by receiving and entertaining such person or persons as aforesaid, to be recovered by the town treasurer or selectmen where no treasurer is appointed, who are hereby respectively empowered to bring an action accordingly.

SECT. 2. *And be it further enacted*, That all costs and charges arising, by warning any such persons as are not inhabitants, entering the caution or carrying them out of town, shall be defrayed and paid by those who received and entertained such person or persons in their houses as aforesaid, and shall be recovered as aforesaid, for the uses aforesaid, and the town treasurer or selectmen aforesaid are hereby directed and ordered before they bring their action, to exhibit to such who receive and entertain any person or persons in their houses as aforesaid, an account of the charges arising thereby, and upon refusing to pay the same within five days, they shall be liable to pay said charge, and be deprived of any benefit by their notification, though given within the twenty days as aforesaid.

[This act to continue, and be in force for the term of five years and no longer.]

Passed 6
Geo. 3. 10 Jan.

AN ACT to enable selectmen to change highways, and to apply land left for highways where it is not suitable, and to purchase land suitable for that purpose where it is wanting.

WHEREAS the selectmen of the several towns are by law enabled to lay out highways for the use of the towns and particular persons, but have not power to change them when laid out, nor to alter the land left for highways in the laying out of townships; and whereas the changing lands left for highways, and highways themselves for other lands more

convenient, may be often done to advantage, not only to particular persons, but whole communities, as after settlement, the land may be better known : Therefore,

SECT. 1. *Be it enacted by the governor, council, and assembly,* That the selectmen of the towns and parishes having town powers, by the voice of the major part of the voters present, at any legal meeting for this purpose, be, and hereby are empowered to exchange any lands left for highways ; or any highways, or any part of them where a way is not necessary to be continued, for other lands more suitable therefor, making due satisfaction in all the foregoing cases, out of the town stock or otherways, for the same, to the owners or proprietors of the lands through which said highways shall run.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That if the owners or proprietors of the lands through which said highways shall run, be not satisfied with what the selectmen shall offer by way of recompense for their damage, that they, or any of them shall have liberty of making application to the court of general sessions of the peace, who are hereby empowered to make inquiry by a jury or committee, which said court may appoint, who may view the premises at the request of either party ; and on their verdict or report, the said court of sessions shall make a final judgment, both as to the satisfaction and cost : and the said selectmen, or the major part of them, if the court so order, shall be subject to an execution therefor ; and they are hereby empowered to raise money for this end, and pay the same out of the publick stock : and the selectmen may, when the land cannot be exchanged by agreement with the owners of the land to be made the new way, sell the land for the most advantage, and apply the money to the purchase of the land where the new way is to be laid ; and if not sufficient, the residue to be raised as aforesaid.

Repealed by act June 20, 1792, p. 479.

Reprinted, because titles may have been acquired under it.

AN ACT to enable Selectmen or Town-Clerks to swear Passed April 1, 1779.
Town-Officers.

WHEREAS many towns and parishes within this state, are destitute of justices of the peace, to administer the oaths of office to the town or parish officers, annually chosen therein ;

Be it enacted by the council and assembly, and it is hereby enacted, That the town or parish clerk, or either of the selectmen for the preceding year, within any town or parish in this state, be, and hereby are authorized to administer the oath of office to the new town or parish clerk, and selectmen ; and the town or parish clerk, or either of the selectmen, being sworn, may administer the said oath of office to any town or parish officer chosen for such respective town, or parish, as effectually to all intents and purposes as a justice of the peace may do in like cases.

Repealed by act June 20, 1792. p. 482.

Passed Dec.
25, 1786.

AN ACT to empower the several towns and parishes in this state, to choose new constables and collectors, in the room of such constables and collectors as have deceased, or may hereafter decease, or have absconded, or shall hereafter abscond, without completing the collection of the taxes committed to them; and to authorize such new elected constables and collectors to complete such collection.

WHEREAS by the decease of constables and collectors, before the collection of the taxes to them committed is completed, great injuries often arise to the publick. And by the absconding of constables and collectors, without having collected the taxes to them committed, equal injuries may happen; Therefore,

SECT. 1. *Be it enacted by the senate and house of representatives, in general court convened,* That upon the decease of any constable or collector, to whom any rate list, or rate lists, have, or shall be committed, which remain in whole, or in part, uncollected, the selectmen of such town or parish, he, and hereby are empowered, to notify a meeting of the inhabitants, qualified by law to vote in the choice of constables and collectors, and to proceed to the choice of a new constable or collector, who is hereby empowered to levy and collect such taxes as remain outstanding at the time of the decease of the former constable or collector, in the same manner as other constables or collectors are by law empowered to do.

SECT. 2. *And be it further enacted,* That the selectmen of such towns and parishes as are authorized by the respective towns and parishes, may agree with any person or persons to complete the collection of such taxes as may remain outstanding, as aforesaid; and the person or persons so agreed with, is hereby empowered to levy and collect the same, as fully and effectually as any constable or collector is by law authorized to do, by the laws of this state; and shall be answerable for the taxes outstanding at the time of the death of the former constable or collector, in the same manner as other collectors are by law answerable for the taxes committed to them to collect. And the executor or administrator of the former constable or collector, shall be answerable for all sums received by their testator or intestate in his lifetime.

SECT. 3. *And be it further enacted,* That when any constable or collector shall abscond, without having collected the taxes to them committed, other constables or collectors may be appointed in the manner aforesaid, to complete the collection, and shall have all the power and authority given to other collectors of taxes by the laws of this state.

Repealed by act June 20, 1792. p. 485.

It is believed that the foregoing acts (under the head of towns,) contain all the old laws respecting the settlement of paupers.

ACTS

RESPECTING PROPRIETORS OF COMMON LANDS, PASSED
BEFORE 1791.

SEE UNDER THE HEAD OF TOWNS,

ACT for the better regulating of Town and Proprietary meetings, page 582.

ACT to enable Towns, Villages and Proprietors in common and undivided lands, to sue and be sued, p. 583.

ACT for regulating Townships, choice of town officers and setting forth their power, p. 586, sect. 3.

AN ACT in addition to several laws of this province relative to proprietors, directing how proprietary meetings of the owners of land and other real estate, lying and held in common and undivided, may be called, and their common and publick affairs transacted. Passed 1
Geo. 3.

WHEREAS it would greatly facilitate the settlement of new townships and other unimproved lands, as well as be advantageous to proprietors of other real estate held in common and undivided, to have a law for raising and levying money among themselves, or upon the rights and interests so held in common, in a summary way, which the laws already in force imply and suppose, but do not particularly direct in such cases, whereby the money determined to be raised for improving the common interest, is seldom seasonably paid, and often times not paid at all, but by a few who are willing, while others who neglect their duty herein, reap the benefit of such payments, though by their neglect they greatly retard the good of the whole, and the burden falls unequally on those who are jointly interested;

For remedy whereof,

SECT. 1. *Be it enacted by the governor, council and assembly,* That where no particular method has been settled and agreed upon by any such proprietors for calling their meetings (which they may do at any legal meeting) any justice of the peace is hereby authorized, upon the application of so many of said proprietors as own a sixteenth part of the shares, rights or interests of the whole made in

writing, expressing their desire that he would notify and call a meeting of the proprietors, and the end and design of it, he shall issue a warrant or notification to the proprietors who are to meet, setting forth that such application has been made, the time and place of holding, and the business to be transacted at the meeting, and shall deliver the same to one of the proprietors who made such application, who shall cause the same to be printed in some publick newspaper which shall be most likely to notify the major part of the proprietors, three weeks successively, and shall also cause the same to be posted up in some publick place within the town or parish where such estate lies (if within any settled town) the same time before the day of holding such meeting. And such proprietors may at such or any other legal meeting, choose any officers they shall judge necessary, to do any business of the proprietors, who shall be sworn to a faithful discharge of the duty and office to which they shall be respectively chosen, and shall continue therein, and be hereby authorized to discharge the same until others shall be chosen to succeed them.

SECT. 2. *And be it further enacted*, That the interest and estate of every such proprietor so lying in common, shall be liable to pay and stand charged with his part and proportion of any sum of money, which at any legal meeting shall be agreed upon and voted to be raised; and those who shall be chosen to assess and proportion the same amongst the proprietors commonly called assessors, shall set such proportion to the original right or proprietor, and commit the list thereof with a warrant or precept to the person chosen to collect the same, therein setting forth his duty agreeable to this act, the time for completing the collection, and to whom the money is to be paid. And such collector is hereby directed, upon receiving the same, to give notice in manner and form aforesaid, of the assessment, and where the same shall be paid and received; as also, that if payment shall not be made accordingly, the money will be levied by sale of so much of the interest and property of the proprietor who shall be delinquent therein, fourteen days after the last week of notice as aforesaid. And in case the money shall not be paid by the expiration of the fourteen days, then the collector shall give notice in the same manner, of the time and place of the intended sale of so much of the delinquent proprietor's right, share and interest in the propriety, as will answer the demand with incidental charges; and may then proceed to make sale thereof, unless at any time before the sale is actually made, by executing the deed of conveyance thereof, the money with all charges shall be paid by, or in behalf of the owner of the estate to have been sold. And the collector aforesaid, is hereby authorized to make sale of such estate as aforesaid, and to execute a good deed or deeds thereof to the purchaser or purchasers, as there

shall be occasion of all the right and demand of such proprietor therein, and shall return the overplus money, if any should be, after deducting the charges of advertising for sale as aforesaid, with all other legal charges, immediately to the person or persons to whom it legally belongs. But the charge of the first advertisement of such assessment shall be defrayed by the proprietors; saving the rights of feme covert, infants, persons in captivity, or beyond seas, so far as to allow to them one year after their respective impediments are removed, they paying the sum due as aforesaid, with the interest thereof, at the rate of six per cent. per annum, and to their heirs and assigns respectively, to redeem the same. And all votes shall be computed according to the interest as is directed by law. And any proprietors aforesaid, are hereby authorized at any legal meeting, to confirm, ratify and establish any grants, conveyances, votes and transactions by them designed and intended to be made, done, performed and transacted, agreeable to such design, intention and aim, notwithstanding any want of form, legal and proper terms, or defects, and defaults of process, relative to the premises.

This act to be, and continue in force for four years, and no longer.

AN ACT in further addition to the several laws of the province, relating to the affairs of proprietors of common and undivided lands: and to enforce the payment of taxes that are, or shall be legally assessed on the proprietors of New Townships, and to promote a speedy settlement thereof: and to render lots of land held in severalty, subject to taxes for the settlement of the land granted.

Passed Oct
28, 1768.

WHEREAS the speedy payment of the sums of money agreed to be raised by any proprietors of new townships, and tracts of land proposed to be settled, is absolutely necessary to the carrying on the same, which payments cannot be secured but by charging the land with the same, as by frequent transfers the owners are uncertain, and often not to be found: and whereas by an act passed in the first year of his majesty's reign, the common and undivided interest of any proprietor, is made liable to pay, and stands charged with his part and proportion of any assessment, made on the proprietors of such common land, as in said act is declared, which act has been found to be very serviceable, and tends much to expedite the settlement of new townships. But since by the practice of dividing a township into several separate lots at once, and drawing for such lots, the whole is severed and divided, presently after it is granted, and no part of the township remains in common and undivided, whereby no tax can be legally imposed on the separate lots, although

the land be waste and uncultivated, and the promoting the settlement thereof as generally useful, as if the same was common and undivided, yet none but the free and voluntary proprietors pay the necessary charges, which is very unequal and greatly retards the settlement, and renders a further provision necessary :

Be it therefore enacted by the governor, council and assembly, That any severed and separate lot of land of any proprietor, of any township or tract of land, in said province granted and holden on certain terms of settlement within a limited time, though holden by such proprietor in severalty, being part of the township or tract so granted, shall be liable to, and stand charged with, its part and proportion of any assessment, or tax that has been or shall be legally made on and by any such proprietors, to all intents and purposes ; and to be seized, taken and sold in the same manner, and under all the same regulations, as in and by the said act is provided and directed, to be done in the case of disposing of a common right or any part thereof for the payment of any such tax.

Provided, nevertheless, That nothing in this act contained, shall be construed to extend to any proprietor's right or share, nor to any lot by him held in severalty as aforesaid, whose right and share, in such township, or tract of land, was, is, or shall be, exempted from the duty of settlement, and of paying taxes, to carry on the same by the original grant and the terms stipulated therein.

Nor shall this act extend, or be construed to extend to charge any proprietor, who has fully complied with the terms, and duties declared in the grant, under which he holds, towards satisfying and discharging the terms and duties of any other proprietor who has not complied with the condition of the grant aforesaid.

And to prevent the injury which may otherwise accrue to purchasers ; the assessors of the respective proprietors shall proportion the tax laid upon each right to the several lots thereto belonging, according to the proportion of such lots to the original right, and the particular lot shall be liable and chargeable for the said proportionable sum, and no more, and the said lot may be sold, observing the rules and directions aforesaid accordingly.

This act to continue and be in force for the term of five years, and no longer. Expired October 28, 1773.

It is implied in this act that the foregoing act of 1 Geo. III. was still in force, but no copy of an act for continuing it has been found except the act next mentioned.

It appears by the journals of the general assembly, that many acts which passed before 1771, are not included in the edition published in that year.

AN ACT to revive and continue in force sundry laws which were made temporary, and are expired, and are particularly mentioned herein. Passed Jan. 18, 1771.

WHEREAS the sundry laws herein expressed, viz. "An act to promote the increase of sheep." "An act in addition to several laws of this province relating to proprietors, directing how proprietary meetings of the owners of lands and other real estate lying and held in common and undivided may be called, and their common and publick affairs transacted." "An act for preventing and suppressing of riots, routs and unlawful assemblies," were found to be useful while they were in force, and would be so if revived, as also "An act to regulate the price and assize of bread ;

Therefore,

Be it enacted by the governor, council, and assembly,
That the said several acts be, and hereby are revived and continued in full force and effect for the term of five years from and after the passing of this act, and no longer.

See act (Appendix p. 469,) for re-establishing the general system of laws, &c. passed April 9, 1777, and see sect. 5, p. 233 of act passed July 3, 1781.

ACTS

RELATING TO THE ADMINISTRATION OF JUSTICE—COURTS,
PROCESS AND TRIALS, &c. PASSED BEFORE 1791.

Passed 9
Geo. 3.

*AN ACT for dividing this province into counties ; and
for the more easy administration of justice.*

Allowed and
published
here March
19, 1771.

FORASMUCH as the great increase of the inhabitants of this province, and the remote situation of many of them from Portsmouth, where the courts of judicature are now held, have rendered the administration of justice very expensive and difficult, and in some cases almost impracticable, the people being generally not of sufficient ability to travel far. And whereas by sundry laws of the province, the present place of holding the courts is so established, that an adequate remedy for so great inconvenience and difficulty cannot be fully and effectually obtained without an act of the general assembly. And his majesty having been graciously pleased to permit the governor to assent to an act for that purpose :

SECT. 1. *Be it therefore enacted by the governor, council and assembly, That the province be, and hereby is divided into five counties in the following manner ; that is to say, the bounds of the first county to begin at the mouth of Piscataqua river ; and to run up the same to the easterly corner of Newmarket, including the river, and from thence north westerly by the easterly and northerly side lines of Newmarket, Epping, Nottingham, Chichester and Canterbury, to the river, and down the same to the line of Concord, including the river, then round the westerly lines of Bow, Concord and Pembroke, to Merrimac river, thence down the same to the northwest corner of Derryfield, thence by the easterly lines of Derryfield, Litchfield, and Nottingham-west, to the province line ; thence by said line to the sea, thence by the sea to the bounds first mentioned, including all that part of the isles of shoals which belong to this province.*

The bounds of the *second county* to begin at the northwest corner of Canterbury, and from thence to cross the river, then down the river to Pemigewasset ; then to run up Pemigewasset river to Campton : thence round the westerly end of Campton, and by the northerly side lines of Campton, Sandwich and Tamworth ; and thence easterly to the province line, on the same course with the northerly side line of

Eaton; thence down said province line to the line of the first county; thence by the same to the bounds first mentioned.

The bounds of the *third county* to begin at the southeast corner of Nottingham-west; thence westerly by the province line to the southeast corner of Rindge; thence by the easterly side line of Rindge, Monadnock number two, Dublin, the townships number six, number seven, and number eight; thence to the south end of Smnapee pond; thence by the easterly side of said pond to the north end thereof; thence by the north westerly side line of Dantzick, Hiedleburgh, and by the northerly side lines of Hiedleburgh, and north westerly side line of Emery's town to Pemigewasset river; thence down the same to the bounds of the first county; thence by the same to the bounds first mentioned.

The bounds of the *fourth county* to begin at the southeast corner of Rindge, and from thence to run westerly by the province line to the western banks of Connecticut river; thence up the same till it comes opposite to the northwest corner of Plainfield; then crossing the river to the last mentioned corner of Plainfield; thence by the northerly side lines of Plainfield and Grantham, to the northeast corner of Grantham; thence by the easterly side line of Grantham, and the north side line of Saville, to the boundary line of the third county, thence by the same to the bounds first mentioned.

And the *fifth county* to contain all the lands, in the province, not comprehended in the other counties.

And all the towns, parishes, precincts or places within the bounds aforesaid respectively, shall be deemed, accepted, named and taken as parts and members of the respective counties aforesaid.

And the names of the said counties shall be, and are hereby as follows, viz. the name of the first county Rockingham; the name of the second county Strafford; the name of the third county Hillsborough; the name of the fourth county Cheshire; the name of the fifth county Grafton.

SECT. 2. *And be it further enacted, by the authority aforesaid,* Instead of the several courts of judicature now established and holden by law in the town of Portsmouth annually, for this province, shall be, and hereby are established to be holden, one superior court of judicature, to have jurisdiction and authority throughout the whole province, to be holden and kept at the times and places herein after appointed, by four justices to be appointed and commissioned thereto by the governor or commander in chief for the time being, any three of whom to be a quorum. Also an inferior court of common pleas within each respective county to be holden by four justices to be appointed and commissioned thereto by the governor or commander in chief, for the time being, any three of whom to make a quorum, to

be holden at such times and places within each county, as are in this act appointed. And one court of general sessions of the peace within and for each respective county, to be holden by the justices of the peace for such county, or so many of them as shall be limited by the commission of the peace to make a quorum, to be holden at such times and places as are in this act appointed; all which courts shall respectively hold and exercise like jurisdiction and authority within their respective counties in all matters and causes arising within such counties, as the superior court of judicature, inferior court of common pleas, and court of general sessions of the peace now respectively hold and exercise, or by law ought to hold and exercise. Justices of inferior courts within this province, and all judges of probate, justices of the peace, sheriffs, coroners, registers of probate, registers or recorders of deeds, and all civil officers whatsoever shall exercise their several offices as the said respective offices and authorities in the counties only to which they belong, in the same manner as the said offices and authorities are now by law exercised within this province. And the register or recorder of deeds and conveyances of real estates for each separate county, shall be separately named and appointed by the governor, council and assembly, agreeable to, and as has been the usual practice in this province in appointing recorders for the province. And the several forms of process now established by law to be used in this province, shall be altered so far only as to be adapted to each respective county. And all processes issuing out of any court of record may be directed to, and executed by the officer or officers of any other county within this province, in their respective counties, as well as by the officer or officers of the county where the process issued.

And all transitory actions, wherein both parties are inhabitants of this province, may be commenced in the county wherein either of the parties to the suit shall be inhabitants, and not elsewhere, within this province.

And the times and places of holding the said courts shall be as follow, viz. the superior court shall be holden at Portsmouth on the first Tuesday of March, and at Exeter the first Tuesday of September, annually, for the county of Rockingham: And at Amherst, for the county of Hillsborough, on the second Tuesday of September, annually. And at Keene, for the county of Cheshire, the third Tuesday of September, annually. The inferior courts for the county of Rockingham, shall be holden at Portsmouth, the first Tuesday of November, February and May; and at Exeter, the last Tuesday of July, annually; and the courts of general sessions of the peace for the county of Rockingham, shall be holden at Portsmouth, the second Tuesdays of November, February and May; and at Exeter the first Tuesday of August, annually. The inferior courts of common pleas for

the county of Hillsborough, shall be holden at Amherst, the first Tuesdays of October, January, April and July, annually. And the court of general sessions of the peace for the county of Hillsborough, shall be holden at Amherst on the first Thursdays next after the first Tuesdays in October, January, April and July, annually.

The inferior courts of common pleas for the county of Cheshire, shall be holden at Keene, the second Tuesdays of October and July; and at Charlestown the second Tuesdays of January and April, annually; and the courts of general sessions of the peace for the county of Cheshire, shall be holden at Keene, on the Thursdays next after the second Tuesdays in October and July; and at Charlestown on the Thursdays next after the second Tuesdays of January and April, annually.

And whereas the said counties of Strafford and Grafton are not fully inhabited, at present, but the inhabitants are daily increasing:

SECT. 3. *Be it further enacted*, That the said counties of Strafford and Grafton shall be for the present annexed to, and deemed, and taken as parts and members of the county of Rockingham, and subject to the jurisdiction and authority of the courts, magistrates and officers of the said county of Rockingham, to all intents and purposes, and shall remain so annexed, deemed, and taken, and subject, until the governor, by and with the advice and consent of the council, shall declare them respectively sufficient for the exercise of their respective jurisdictions, and no longer.

SECT. 4. *And be it further enacted*, That the justices of the peace for each and every of the counties aforesaid, at any court of general sessions of the peace, shall be, and hereby are authorized to make orders for the raising any sum or sums of money that may be found necessary from time to time for building or repairing court houses, prisons, houses of correction, or other publick buildings, payment of grand juries, justices of the sessions, and all other county charges within each respective county; and to examine and allow any account or demand that may be laid before them from time to time for the ends aforesaid, which orders shall be sent to the selectmen of each town, parish or place within the respective counties, setting forth the proportion of said sum or sums to be raised by such town, parish or place, which shall be in proportion to the part they respectively pay of the province tax; and the said selectmen are hereby authorized and required to cause the same to be assessed, levied and paid in to the said justices, or to such person or persons as they shall respectively appoint: and the constables or collectors of such town, parish or place, are hereby authorized and required to levy and pay in such assessments; and in case the selectmen of any town, parish, or place shall not assess, levy and cause to be paid in as

aforesaid, the respective sum or sums ordered as aforesaid, within the time limited in such order, the said court of general sessions of the peace shall, and hereby is authorized to cause the same to be levied by warrant of distress, directed to the sheriff of the county or his deputy, out of the proper goods, chattels or lands of the said selectmen, and in want thereof, on their bodies, and if any constable or collector shall not perform his duty in collecting and paying any assessment made as aforesaid, the selectmen who made such assessment, or their successors, shall be, and hereby are authorized to cause the same to be levied by warrant of distress, to be directed to the sheriff of such county or his deputy (who are hereby authorized to execute any of said warrants) of the proper goods, chattels or lands of such delinquent constable or collector, and for want thereof, on his body. And the said court of general sessions of the peace shall have the care of building, inspecting and repairing all prisons, court houses and other necessary publick edifices within their respective counties; and in case of the escape of any debtor or debtors through the insufficiency of the gaol or prison in any county, the same being found upon an inquiry to be made by the court of general sessions of the peace, for said county, or by a committee by them appointed for that purpose, or by verdict of a jury, in an action against the sheriff, for such escape, the county where such escape shall happen, shall cause the creditor or creditors to be paid and satisfied his or their full debt or damages and cost, to be levied upon the county in manner aforesaid; and in case said court shall on due application made to them by any creditor or creditors, in such case shall not grant proper redress therein, as aforesaid, such creditor or creditors may apply to the superior court of judicature, who are hereby authorized to grant redress therein, and to cause the debts or damages and costs as aforesaid to be levied in manner aforesaid, and paid to the creditor or creditors respectively.

And whereas, it will require some time after his majesty's royal approbation of this act shall be made known, to appoint the several proper officers within the several counties as aforesaid; and also to build court houses, prisons and other necessary publick edifices before the courts established by this act, begin to exercise their several jurisdictions and authorities.

SECT. 5. *Therefore be it further enacted*, That the space of four months be, and hereby is allowed after his majesty's royal approbation of this act shall be made known for the purposes aforesaid; and the several courts of judicature now established in this province, shall continue to exercise their several powers and authorities, until the expiration of the said four months, as if this act had not been made. And all courts established by this act, shall be, and

hereby are suspended from exercising their respective powers and authorities for the said space of four months; except the courts of general sessions of the peace for each county, which shall sit for the purposes only of raising money as aforesaid, for building court houses, prisons and other necessary publick buildings in each county.

SECT. 6. *And be it further enacted*, That all writs, processes and other matters that at the expiration of the said four months shall be returnable to, or depending in the superior court of judicature, shall be returned to, and sustained by the first superior court of judicature that shall be holden pursuant to this act for the county of Rockingham; and all writs, processes or other matters that at the expiration of the said four months, shall be returnable to, or depending in the inferior court of common pleas for the whole province, shall be returned to, and sustained by the first inferior court of common pleas that shall be holden pursuant to this act, for the county of Rockingham: and all records and papers belonging to the inferior court of common pleas for the province, shall be delivered to, and remain in the custody and care of the inferior court of common pleas for the county of Rockingham. And all writs, processes and other matters that at the expiration of the said four months, shall be returnable to, or depending in the court of general sessions of the peace for the province, shall be returned to, and sustained by the first court of general sessions of the peace that shall be holden pursuant to this act for the county of Rockingham: and all records and papers belonging to the said court of sessions for the province, shall be delivered to, and remain in the custody and care of the court of general sessions of the peace for the county of Rockingham.

SECT. 7. *And be it further enacted*, That the times and places of holding the said courts in the said counties of Strafford and Grafton, shall be established as the governor, council and assembly shall judge most convenient, at the time the governor and council shall determine, they may assume the actual exercise of their county privileges.* But that this act, nor any clause therein shall be in force, nor have any effect, till his majesty's royal approbation thereof be known.

Repealed by act June 20, 1792. p. 479.

Conway was annexed to Strafford Nov. 10, 1778, and New Holderness and Campton to Grafton Sept. 14, 1782. Fishersfield was declared to be in the county of Hillsborough by act Nov. 27, 1778.

An act passed July 3, 1776, for establishing the stile of commissions, &c. which enacted and declared, that all commissions, suits, processes, proceedings in law, and precepts should be in the name and stile of the government and people of the colony of New-Hampshire, and that recognizances should be taken in the same name and stile, and that suits should be brought on them (and on such as had been taken in the name of the king) in the name and behalf of the government and people of the colony of New-Hampshire, and the money paid into the treasury for the use of the people.

Repealed by act June 20, 1792. p. 480.

* An act passed Feb. 5, 1773, for the purpose. It was suspended for the term of four months with an exception as to the court of sessions as above.

Passed Sept
11, 1776.

AN ACT to adopt and take the Name, Stile and Title of State in lieu of Colony in New-Hampshire.

WHEREAS by a late declaration of the honorable continental congress, the united colonies of North America are declared free and independent states ; Therefore,

Be it enacted by the council and assembly, That henceforth this colony assume and take the name and stile of the State of New-Hampshire. And where any law hath directed the name and stile of the colony of New-Hampshire, or the name and stile of the province of New-Hampshire to be used in any commissions, processes or writings whatever, in lieu thereof, shall be now used the name and stile of the state of New-Hampshire and not otherwise.

Passed June
28, 1776.

AN ACT to abolish the court of appeals in this colony, and to empower the superior court of Judicature to sustain and determine all matters pending in said court of appeals, and to prevent the absurd practice of granting appeals to the king of Great-Britain in council from the judgments of any courts in this colony in future.

WHEREAS the granting such a multiplicity of appeals from court to court, and trials consequent thereupon as hath been heretofore practised within this colony hath been found to promote litigation to protract suits, and increase the charges thereof, rather than to serve the ends of justice in this colony : and whereas the allowance of appeals in any cases to said court of appeals, or to the king of Great-Britain is depriving the people of this colony of their great inestimable and inherent right of trial by jury, and opening a door for arbitrary decisions of their property, even in causes of the greatest moment ;

Therefore,

SECT. 1. *Be it enacted by the council and house of representatives for said colony, in general court assembled,* That the said court of appeals heretofore held in this colony shall be, and hereby is totally abolished ; and that no appeal heretofore granted by the laws of this colony to the said court of appeals, or to the king of Great-Britain in council, from the judgment or sentence of any court whatever in this colony shall be granted : and that all appeals from any sentence of any judge of probate for any county in this colony, which heretofore might by the laws thereof be granted to said court of appeals, shall for the future be granted only to the superior court of judicature next to be holden for the same county wherein the same appeal may be granted ; which said superior court shall hear and finally determine all causes and matters as may be brought before them by appeals from any court of probate within this colony.

SECT. 2. *And be it further enacted, by the authority aforesaid, That all appeals heretofore granted to, and matters now pending in said courts of appeals, may, and shall be sustained, heard and determined by the said superior court in the county where the action or appeal originated. All causes and matters now pending before said court of appeals by appeals from the superior court heretofore held in this colony, may be brought before the superior court of judicature established in this colony by writ of review, any time within three years from the passing this act; and all causes or matters now pending in said court of appeals, by appeal from any court of probate in this colony, may, and shall be brought before the last mentioned superior court, by entering the appeal there any time within two years, in the same manner as if it had been first granted to that court.*

*AN ACT for establishing Courts of Publick Justice with-
in this province.* Passed 11
Wm. 3.

WHEREAS the orderly regulation and establishing of courts of justice, as well in respect of time as place, for the holding of the same, doth very much tend to the honour and dignity of the crown, and to the ease and benefit of the subjects;

SECT. 1. *Be it therefore enacted by his excellency the governor, council and representatives, convened in general assembly, and by the authority of the same, That every justice of the peace in the same town, where he resides, be, and hereby is fully authorized and empowered to hear, try and determine all pleas and actions of debt, and trespass, where title of land is not concerned, arising or happening within this province, to the value of forty shillings, or under, and to give judgment therein, and to award execution thereupon; and either party aggrieved at the judgment or sentence given by any such justice in civil causes, may appeal therefrom unto the next inferior court of common pleas; the party appealing giving security before such justice unto the appellee, in a reasonable sum to prosecute his appeal with effect, and to answer and pay such cost and damages as shall be awarded against him, in case the first sentence be affirmed.*

And for the better conservation of the peace and punishment of offenders,

SECT. 2. *Be it further enacted, by the authority aforesaid, That there shall be held and kept, by the justices of the peace within this province, or so many of them, as shall be limited by the commission of the peace to make a quorum; four quarterly courts, or general sessions of the peace yearly, at the town of Portsmouth, on the first Tuesdays in the months of March, June, September and December, from time to time; which said court shall have cognizance of all matters and things proper to the jurisdiction of said court*

relating to the conservation of the peace, and punishment of offenders, according to the law and statutes in force within this province: and the sessions of the said court shall hold and continue by the space of two days, and no longer.

SECT. 3. *And be it further enacted, by the authority aforesaid,* That there shall be held and kept at Portsmouth aforesaid, an inferior court of common pleas, by four justices to be appointed and commissioned thereto by the governor, or in his absence, the commander in chief, for the time being, any three of whom to make a quorum; the said court to be held, and begin at the time and days following; that is to say, on Thursday next after the rising of the court of the quarter sessions of the peace, from time to time: which said inferior court of common pleas shall have cognizance of, hear, try, and determine all actions, matters and causes triable at the common law, not exceeding the sum or value of twenty pounds, and when title of land is not concerned; and give judgment therein, and award execution accordingly.

Provided, nevertheless, That either party aggrieved at any judgment or sentence given in the said court, may appeal therefrom unto the next superior court of judicature: such appellant giving sufficient security in double the sum or value recovered unto the appellee, before one or more of the justices of the inferior court, to prosecute his appeal with effect, and to answer and pay such cost and damages as shall be awarded against him in case the first sentence shall be affirmed.

SECT. 4. *And be it further enacted, by the authority aforesaid,* That there be held and kept at Portsmouth aforesaid, and not elsewhere, within this province, a superior court of judicature, by one chief justice, and three other justices, to be appointed and commissioned thereto by the governor, or in his absence, by the commander in chief, for the time being, any three of whom to make a quorum, on the second Tuesday in August, and on the second Tuesday in February, yearly, from time to time; which said courts shall have cognizance of all pleas and causes, as well civil (not under the value of twenty pounds, except where title of land is concerned,) as criminal, as fully and amply to all intents and purposes whatsoever, as the courts of king's bench, common pleas and exchequer within his majesty's kingdom of England, have or ought to have; and are hereby empowered to give judgment or sentence, and award execution therein: and it shall be in the liberty of any party, plaintiff or defendant aggrieved at any judgment given in the said superior court, to appeal therefrom, unto the governor and council. *Provided* the value appealed for exceed the sum of one hundred pounds sterling; and that sufficient security be given, in manner as in and by this act is before directed to prosecute the same, and to pay such costs and damages as may be awarded, in case the first sentence shall be affirmed.

SECT. 5. *And it is hereby enacted and ordained, That in civil causes to be commenced at the said superior court of judicature, where the matter in controversy exceeds the true value and sum of three hundred pounds sterling, it shall, and may be in the liberty of the party aggrieved, to review the said cause by a new process out of the said court, once and no more; and if either party shall not rest satisfied with the judgment or sentence of the said superior court, either upon the first trial, or upon the review, such party may appeal therefrom unto his majesty in council. Provided the matter in difference, exceed the true value and sum of three hundred pounds sterling: and that such appeals be made within fourteen days after sentence given; and that security be likewise given by the appellant, to answer such charges as shall be awarded, in case the first sentence shall be confirmed.*

SECT. 6. *And be it further enacted, by the authority aforesaid, That all writs and processes for bringing any actions or suits to trial, in any of the courts aforesaid, shall be summons, capias or attachment; and shall issue out of the clerk's office of the same court under the seal thereof, and signed by the clerk, and shall be directed to the sheriff, under sheriff or deputy, and executed fifteen days before the day of the court's sitting, and to be returned to the court from whence the same issued. Writs and processes for trial before a justice of the peace, to be granted by such justice, directed unto a constable or constables, and to be executed seven days before the day appointed for such trial, and to be returned to the justice.*

SECT. 7. *And be it further enacted, That every person appealing from any judgment or sentence given in any of the courts aforesaid, shall file a declaration in the clerk's office of the court, appealed from, therein briefly assigning the errors in such judgment fifteen days at least before the day of the sitting of the court appealed unto. And if the appeal be made from a sentence or judgment given by a justice of the peace, such declaration shall be filed with the justice by the like time.*

SECT. 8. *Be it further enacted, by the authority aforesaid, That as well the justices of the inferior court of common pleas, as the justices of the superior court of judicature respectively, where the forfeiture or penalty of any obligation with a condition under written, or a penalty annexed to any articles, agreement, covenants, contracts, charter-party, or other specialty or forfeiture of any estate granted upon condition, executed by deed of mortgage or bargain, and sale with defeazance, shall be found by verdict of jury, or by default or confession of the obligor, mortgagor or vendor, are hereby empowered and authorized to moderate the rigour of the law. And on consideration of such cases according to equity and good conscience to chancer such forfeit-*

ure, and to enter up judgment, for the just debt and damages, and to award execution accordingly ; only in real actions upon mortgage or bargain and sale with defeazance, the judgment to be conditional, that the mortgagor or vendor, and his heirs, executors or administrators to pay unto the plaintiff such sum as the court doth determine to be justly due thereupon, within two months time after judgment entered up, for discharging of such mortgage or sale, and that the plaintiff recover possession of the estate sued for, and execution to be awarded for the same. And the justices of the said several courts, as superior, as inferior respectively, shall take the oath following, to be administered unto each of them by the governor, or in his absence by the commander in chief, for the time being, or such as shall be by him thereto, appointed.

That is to say,

You swear, that well and truly you shall serve our sovereign lord the king, and his people, in the office of a justice of the court of and that you will do equal law and execution of right to all people, poor and rich, after the laws in force within this province, and usage within the same ; and in such cases, as the law doth specially provide to be relieved in equity and good conscience, without having regard to any person whatsoever.

So help you GOD.

Any law, usage, or custom to the contrary in any wise notwithstanding.

Repealed by act June 20, 1792. p. 473.

Passed 17
Geo. 2.

AN ACT in addition to an act, entitled, An act for establishing Courts of publick justice within this Province.

WHEREAS the conditions annexed unto bonds and other specialties, are sometimes for the payment of monies, or the performance of other matters and things at different times ; and when upon the first breach of such condition, the bond or specialty has been put in suit, it has been apprehended that the courts of justice, even in equity, can chancer such bonds or specialties to so much only of the debt or other collateral matters to be performed, as is become due at the time of the action brought, whereby the obligee may meet with difficulty to recover his debt as shall become due.

Be it therefore enacted by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same, That when any action shall be brought and prosecuted on any bond or other specialty, with penalty for the payment of sums of money, performance of covenants, contracts, agreements, matters or things to be done at several times, and the plaintiff recover the

forfeiture of such penalty, the court shall enter up judgment for the whole of such forfeiture, and award execution only for so much of the debt or damage as is due or sustained at that time : so always that the said judgment shall stand and be a security to the plaintiff, his executors and administrators, for any further and after payment or damages he or they may have a just right to, by the non-performance or breach of the covenants, contracts, agreements or things in such bonds, or other specialties contained ; and may have a writ or writs of *scire facias* on said judgment, from such courts respectively, where the same was obtained against the defendant, his heirs, executors or administrators, suggesting other and further damages, sustained by the non-performance or breach of such covenants, contracts and agreements ; and to summon him or them to shew cause why execution should not be awarded upon said judgment, for other and further damages, as set forth in the writ of *scire facias*, and made out to the court ; upon which the said court shall proceed as aforesaid, and so *toties quoties*, or as often as such damages shall accrue, and be sued for as aforesaid.

This act to continue for ten years, and no longer.

AN ACT for reviving an act, entitled, An act in addition to an act, entitled, An act for establishing Courts of public justice within this Province, made and passed in the seventeenth year of his present Majesty's reign. Passed 29 Geo. 2.

WHEREAS the before recited act is expired, the same being temporary, and the same having been found very beneficial whilst in force, and it appearing necessary that the same should be revived ;

Be it enacted by his excellency the governor, council, and assembly, That the before recited act, and all and singular the paragraphs, clauses, articles, directions and powers in the said act contained, shall be, and hereby are revived, re-enacted, directed and ordered to abide and remain in full force, and accordingly to be exercised, practised and put in execution for, and during the space of twenty years from the passing hereof, and no longer.

See act for the re-establishing the general system of laws, &c. p. 469.

AN ACT for regulating of Trials in Civil Causes.

Passed 13 Wm. 3.

SECT. 1. *BE it enacted by the lieutenant governor, council, and representatives, convened in general assembly, and by the authority of the same,* That all actions triable at the common law, above *forty shillings* value, as also titles of land, shall be first brought to the inferior court of com-

mon pleas, (excepting only actions or causes relating to the crown, which may be tried at either the inferior court of common pleas, or the superior court of judicature.) And that all writs, processes, declarations, indictments, pleas, answers, replications and entries, in the several courts of justice within this province, shall be in the English tongue, and no other. And that no summons, process, writ, judgment, or other proceedings in court, or course of justice, shall be abated, arrested, or reversed for any kind of circumstantial errors, or mistakes, where the person or case may be rightly understood and intended by the court, nor through defect or want of form only; and the justices on motion made in court may order amendment thereof.

SECT. 2. *And it is further enacted, by the authority aforesaid,* That if any person shall cause process to be served upon another, on pretence of debt, trespass, or for any other matter or cause, and discontinue his suit, or be nonsuit, the justices of the court where such process is returnable, shall give judgment for the defendant to recover reasonable cost. And in case the defendant in any suit, being duly served with process, and return thereof made in to the court, where the same is returnable, do not appear by himself or attorney, his default shall be recorded, and judgment be entered up against him thereupon; unless before the jury be dismissed, he shall come into court, and move for a trial; in which case he shall be admitted thereto upon paying down to the adverse party the cost he hath been at so far; and the plaintiff shall pay for entering the action anew.

SECT. 3. *And further it is enacted,* That as well the justices of the superior court of judicature, as the justices of the inferior court of common pleas, and justices of the court of general sessions of the peace in this province, be, and are hereby respectively empowered to make necessary rules for the more orderly practising in such court, so as that the said rules be not repugnant to the laws of this province: as also from time to time to appoint and settle a clerk to officiate in such court, and to do all things proper to that office, who shall be under oath, well and truly to execute and discharge the same.

SECT. 4. *And be it further enacted,* That the said clerks of the several courts, aforesaid, may, and are hereby respectively empowered to grant summons for witnesses, directed to the party to be summoned for witnesses, which summons shall be made out in form following:

That is to say:

To A. B. of C. *Greeting.*

YOU are hereby required in his majesty's name to make your appearance before the justices of our lord the king, at the next court of to be held at Portsmouth in New-Hampshire, on the to give evidence of what you know, relating to an action or plea

of then and there to be heard and tried betwixt A. B. of C. plaintiff, and D. E. of H. defendant : hereof fail not, as you will answer your default, under the pains and penalties in the law in that behalf made and provided. Dated at P. the day of in the year of his majesty's reign. *Annoque Domini,*

A. D. Clerk.

SECT. 5. *And be it further enacted,* That if any person who shall be served with lawful process or summons, to testify, depose, or give evidence concerning any case or matter depending in any of the courts aforesaid, and having tendered unto him or them such reasonable sum or sums of money for his or their costs and charges, as having regard to the distance of the places is necessary to be allowed in that behalf, do not appear according to the tenor of the process or summons, having no lawful or reasonable let or impediment to the contrary, that then the party so making default, shall, for every offence, lose and forfeit *forty shillings*, and shall yield further recompense to the party aggrieved, according to the loss and hindrance that he shall sustain by reason of the non-appearance of such witness or witnesses ; the said forfeit and damage to be recovered by the party so aggrieved against the offender or offenders, by action of debt in the inferior court of common pleas within this province, wherein no essoign, protection, or wager of law shall be allowed : and *two shillings* per diem shall be accounted due satisfaction to any witness for his travel and expenses, and no more, to be allowed in civil cases ; and if such witnesses live within three miles of the place of the courts sitting whereto he is summoned, and be not to pass any ferry, then *one shilling* and *six pence* per diem shall be accounted sufficient. And no person serving as a justice, juror, witness, or otherwise, shall be required to use any other ceremony in taking of their respective oaths than lifting up the hand, as hath been accustomed.

SECT. 6. *And it is further declared and enacted, by the authority aforesaid,* That it shall be in the liberty of the party aggrieved at the judgment given in any inferior court of common pleas, to appeal therefrom unto the next superior court of judicature to be held within this province ; and the party so appealing, before his appeal be allowed, shall give sufficient security to prosecute the same with effect, and to answer and pay all intervening damages occasioned to the appellee by his being delayed, with additional costs, in case the judgment be affirmed, and execution shall be stayed and suspended, until after the trial had upon the appeal.

SECT. 7. *And further it is enacted,* That the party appellant shall produce and give in to the court where such

appeal is to be tried, attest copies of the writ, judgment, and of all the evidences filed in the inferior court of common pleas; and shall also file a declaration in the clerk's office of the inferior court, briefly setting forth the reasons of his appeal under his own or attorney's hand, fourteen days at least before the day of the sitting of the court, where the same is to be tried; and the clerk of the inferior court shall note thereupon under his hand, the day of the receipt thereof, and shall also transcribe a true copy thereof, and attest the same at the charge of the appellant to remain on file in the office, and then deliver the original declaration made up under the seal of the court to the appellant, by him to be transmitted and presented to the court where such appeal is to be tried; and each party shall be allowed the benefit of any new and further plea and evidence.

SECT. 8. *And be it further enacted*, That execution in any case shall not be granted, until the expiration of twenty-four hours next after the entering up of judgment; and that no person imprisoned upon mesne process, shall be held in prison upon such process above the space of thirty days next after the rising of the court where the same is returnable, notwithstanding judgment thereupon recovered, unless such person be continued there by having his body taken by execution: nor shall the prison keeper discharge any such prisoner having judgment entered up against him within the said space of thirty days after the court's rising, to the intent, his body may be taken in execution, but by special order of the party at whose suit he stands committed, signified in writing under his hand: nor shall any goods or other estate attached to respond the judgment that shall be recovered on suit brought, be released or discharged from such arrest, until the expiration of thirty days next after rendering of judgment for the plaintiff in such suit, to the intent he may take the same by execution for satisfying such judgment in whole or in part, so far as the value thereof can extend, if he think fit, unless the judgment be sooner or otherwise satisfied.

SECT. 9. *And be it further enacted, by the authority aforesaid*, That it shall be in the liberty of the party aggrieved at the judgment given in the inferior court of common pleas, or in the superior court of judicature respectively, by new process, to review the said case once in each court; and the party bringing such action of review shall produce and present attested copies of the writ, judgment, and of all the evidences on file in the former trial, and each party shall have the benefit of any new and further plea and evidence.

Provided, No action of review shall be brought after the expiration of three years, from the time of rendering the judgment to be reviewed.

Saving unto any infant, feme covert, or person *non compos mentis*, imprisoned, in captivity, or out of this province, the term of three years next after their coming of full age, or such imperfection removed to bring his or her action of review, and not afterward.

SECT. 10. *And it is further enacted*, That execution shall not be stayed or suspended for, or by reason of any process of review.

SECT. 11. *And be it further enacted*, That in cases of appeal from the superior court of judicature to the governor and council, every person so appealing from any judgment or sentence given in the superior court aforesaid, shall file a declaration in the clerk's office of the court appealed from, therein briefly assigning the errors in such judgment, fifteen days at least before the day of the next sitting of the governor and council, to hear appeals, which shall be on the second Tuesdays of the months of November and May, annually : any usage or custom to the contrary notwithstanding.

Repealed by act June 20, 1792, p. 474.

AN ACT for taking Affidavits out of Court.

Passed 13
Wm. 3.

FORASMUCH as it is often necessary, that witnesses in civil causes be sworn out of court, when by reason of their going to sea, living more than five miles distance from the place where the cause is to be tried, age, sickness, or other bodily infirmity, they are rendered incapable of travel, and appearing in person at the court : to the intent therefore that all witnesses may indifferently testify their certain knowledge, and the whole truth in the cause they are to speak unto :

SECT. 1. *Be it enacted by the lieutenant governor, council, and representatives convened in general assembly, and by the authority of the same*, That for any the reasons aforesaid, and not otherwise, every justice of the peace, or others lawfully commissioned, or empowered thereto, by two or more of the justices of the superior or inferior court respectively, may take affidavits out of court, so as a notification with reasonable time, be first made out and delivered to the adverse party, (if within this province) or left at the place of his dwelling, or usual abode, to be present at the time of taking such affidavit, if he think fit ; and every such witness shall be carefully examined, and cautioned to testify the whole truth : and being sworn, the justice shall attest the same, with the day, month and year, of the caption thereof ; and that the adverse party was present, (if so) or that a notification was sent him, and shall seal up the testimony, and deliver it to the party, (if desired) at whose request it was taken : and no person interested shall write or draw up the testimony of any witness, in such cause, nor any attor-

ney in his client's cause: and if it manifestly appear any testimony to be written or drawn up by any interested, or the attorney in the cause, or be returned from any justice of the peace, by other hand than his own, into the court where the same is to be used, unsealed, or the seal having been broken up, all such testimonies shall be rejected by the court, and be utterly void, and of no effect in law.

SECT. 2. *And be it further enacted, by the authority aforesaid, That every justice of the peace shall be, and is hereby empowered upon request to him made, to grant summons for the appearance of any witness before him, in any civil or criminal cause, where such witness is bound to sea, before the time of trial, and to take his deposition in such cause, the adverse party being present, or notification sent him, as aforesaid.*

Provided, nevertheless, That witnesses to bonds, specialties, letters of attorney, and other instruments in writing under the hand of the party executing the same, or to accompts, or testimonies relating to persons out of this government; or to be sent beyond sea, may be sworn without such notification, as aforesaid.

SECT. 3. *And be it further enacted, by the authority aforesaid, That all affidavits relating to the possession of any houses or lands, or any other matter, in perpetuum rei memoriam, shall be made and taken before some court of record, or two or more justices of the peace, quorum unus.*

SECT. 4. *And it is further enacted, That all persons forswearing themselves in any such affidavits taken as aforesaid, shall incur the same penalties, as if they had been taken in open court.*

Repealed by act June 20, 1792. p. 474

Passed 4
Geo. 1.

AN ACT to prevent causeless Arrests, &c.

SECT. 1. **B**E it enacted by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same, That every person, principal or attorney, executor or administrator, taking out a writ or attachment against another, before he receive it out of the clerk's office, shall endorse his surname on the back thereof towards the bottom, and shall stand chargeable, and be liable to answer and pay to the adverse party his cost arising by the arrest, and charge of imprisonment, if any be, to be taxed in common form by the judges of the court where the writ is returnable, in case of non-prosecution, discontinuance, or that the plaintiff be nonsuit, or judgment pass against him, to be levied on the principal, the executor, administrator or attorney that endorsed or took out such writ, if the principal be without the province, or be unable to pay the same.

And no person shall entertain more than two of the sworn attornies at law, that the adverse party may have liberty to retain others of them to assist him, upon his tender of the established fee, which they may not refuse.

SECT. 2. *And be it further enacted, by the authority aforesaid, That if the plaintiff in any action suffer a nonsuit, through the default, negligence or omission of his attorney that drew the writ, being an attorney at law, practising and legally admitted in the courts of law within this province, by mislaying of the action, or otherwise, such attorney shall draw a new writ without a fee, in case the plaintiff see cause to revive his suit.*

Repealed by act June 20, 1792. p. 476

AN ACT relating to Appeals from Judgment in Bar, or Abatement. Passed &
Geo. 1.

SECT. 1. **B**E it enacted by his excellency the governor, council, and representatives, convened in general assembly, and by the authority of the same, That all pleas in bar or abatement, shall be made originally in the inferior court, in suits there brought, and at the first bringing forward thereof, before any issuable plea made. And when a writ shall by judgment of court be barred or abated; and the plaintiff or defendant appeals from such judgment to the superior court of judicature: if upon hearing the appeal, the superior court, notwithstanding the pleas made in bar or abatement adjudge the writ to be good and well brought, they shall reverse the judgment of the inferior court, and award to the appellant his whole cost, at both courts; and the next session of the inferior court holden for this province, shall proceed to trial of the merit of the cause upon the same writ, without any delay; a new entry thereof being made.

And all goods and estate attached, and sureties or bail given, shall continue and be alike responsible in manner, as is by law provided, to satisfy the principal judgment upon such trial, as if no intermediate judgment had been rendered, or given. And the same rule and method to be observed in appeals to be made from the judgment in bar, or abatement given by any justice of the peace, to the inferior court of common pleas: any law, usage, or custom to the contrary notwithstanding.

Saving always, That in suits wherein the king is concerned, upon the superior court's reversal of any judgment in bar, or abatement, the said court shall proceed to try the cause.

SECT. 2. *And be it further enacted, by the authority aforesaid, That if any person having appealed, and given security for prosecution thereof, shall neglect to prosecute*

the same with effect in manner as the law provides, the party that obtained the judgment in the inferior court of common pleas, entering his complaint in the superior court of judicature, court of assize, and general gaol delivery, to which such appeal did lie, and producing attested copies of the judgment, appeal and recognizance given for prosecution thereof, the justices, of the said superior court of judicature, court of assize, and general gaol delivery, shall affirm such judgment of the inferior court of common pleas, with the cost arising upon the suit there, and grant further cost for entering and prosecuting the complaint, as aforesaid, and award execution accordingly; the fee to be paid for the entering such complaint shall be the same as for entering an action, and the parties attendance and charges the same as the law allows in like cases.

SECT. 3. *And be it further enacted, by the authority aforesaid, That all recognizances given for prosecuting of appeals, as aforesaid, shall remain good for the benefit of the parties respectively for whom they were taken, to bring a suit thereon, to recover all intervening damages occasioned by such parties being delayed from the time of rendering the first judgment, unto the time when such appeal should have been tried. And the sureties in such recognizance named, shall be liable and obliged to satisfy the judgment given for such intervening damages, with the additional cost of suit, in case of the principal's avoidance, and return made of non est inventus, upon the execution granted against him, and the judgment for the same shall be affirmed against sureties, and execution be awarded accordingly, as is by law provided referring to sureties upon mesne process.*

Provided, That such sureties be served, with a writ of scire facias, within twelve months next after rendering of judgment upon the trial, on such recognizance, and not afterward.

Repealed by act June 20, 1792. p. 476.

Passed 5
Geo. 1.

AN ACT providing, that in suits where goods or other Estate is attached, the Defendant be summoned.

TO the intent that all persons may have due notice to prepare and make their defence in every act* and suit commenced against them;

SECT. 1. *Be it enacted by his excellency the governor, council, and representatives, in general assembly convened, and by the authority of the same, That when the goods or estate of any person shall be attached at the suit of another in any civil action, a summons in form of law as is prescribed, shall be delivered to the party whose goods or estate are attached, or left at his or her dwelling house, or place of last*

* It is act in editions 1719, 1761, and 1771.

and usual abode, fifteen days before the day of the sitting of the court where such attachment is returnable; and in case the defendant was at no time an inhabitant or sojourner within this province, then such summons to be left with his or her tenant, agent, or attorney, and the serving of it to be certified by a sworn officer that executed the attachment, or by affidavit made in court by the person that delivered the same, and by one other credible witness then also present, otherwise the writ shall abate.

And upon suits brought hither by writ of *scire facias*, or writ of dower, or where the defendant in any suit shall not be served therewith in his own person, an attested copy of the writ, and of the service thereof under the hand of the sheriff or his deputy, that executed the same, shall be left at the house or place of usual abode of the defendant. And in case the defendant was at no time an inhabitant or sojourner within this province, then with his or her tenant, agent, or attorney, as aforesaid, by the like number of days before the day of the court's sitting where such writ is returnable, as is required for the service thereof; and if it be waste or unimproved land, the summons shall be left at any dwelling house next situate thereto, with any person of full age inhabiting therein. And in writ of dower a copy thereof with the service alike attested, as before, shall also be left with the tenant or occupant of the house or land whereof dower is demanded, to be rendered, or in or upon the same; and the sheriff or his deputy, shall certify the same in his return, or otherwise the writ shall abate.

SECT. 2. *And further it is enacted, by the authority aforesaid,* That when it happens the party against whom suit is brought, not to be an inhabitant or sojourner within this province, or to be absent out of the same at the time of commencing such suit, and shall not return before the time for trial, the justices of such court where the suit is brought shall continue the action to the next court, and if the defendant doth not then appear by himself or attorney, and be so remote that the notice of such suit depending could not probably be conveyed to him during the vacancy, the justices at such next court may further continue the action to the court then next following, and no longer: and in such cases where judgment is entered up by default, after two continuances, as aforesaid, execution or writ of seizin shall be stayed, and not issue forth until the plaintiff or demandant shall have given bond, with one or more sufficient sureties, in double the value of the estate, or sum recovered by such judgment to make restitution, and refund and pay back such sum as shall be given in debt or damage, or so much as shall be recovered upon a suit therefore to be brought within twelve months next after entering up the first judgment, if upon such suit the judgment shall be reversed, annulled, or alter-

ed, the security aforesaid to be no further answerable than for the recovery that shall be made upon such suit to be made within twelve months, as aforesaid.

Provided, That no real estate taken in execution granted upon such first judgment shall be alienated or past away, until after the expiration of the said twelve months, or after a new trial brought within the said space of twelve months, to the intent that restitution thereof may be made in case as aforesaid.

Repealed by act June 20, 1792. p. 477.

Passed 29
Geo. 2.

AN ACT for the more easy and speedy prosecution of Actions of Ejectment, and for ascertaining the Fees for giving seizin therein.

BE it enacted by the governor, council, and assembly, That in any action of ejectment, or trespass and ejectment, which shall hereafter be brought within this province for recovering possession of any real estate, no person against whom the same shall be brought shall be held to give special bail, but his or her own bail shall be deemed sufficient to answer the same. And in any such action, the writ shall not be abated, because all the tenants are not sued, but those on whom the writ shall be served shall answer for such part of the premises demanded as they claim, which they shall distinguish and set forth in their plea, and disclaim the remainder, and if any shall disclaim the whole, unless the plaintiff shall prove each disclaimer's possession of all or part of the premises demanded, they shall recover costs against the plaintiff.

And the sheriff shall be entitled to demand, and have of the plaintiff for the service of a writ of *habere facias possessionem*, and *feri facias*, the same fee as for service of the original writ of summons, or attachment, in the cases aforesaid, together with the poundage for levying the costs, as the law directs, for levying money in other executions, and for serving any writ of seizin or possession where there is no costs to be levied, the same fee shall be paid as the law gives for serving the original writ which was the first process in the case, and no more in any of the cases aforesaid.

Repealed by act June 20, 1792. p. 478.

AN ACT to prevent the abatement of writs, and loss of actions pending by the death of any of the parties concerned in them, before final judgment. Being the sixth and seventh paragraphs of the statute of the 3th, and 9th, of William 3. Chap. 11. Passed 5 Geo 3.

WHEREAS it has often happened, that while suits are depending before the courts or after actions are commenced, before judgment, by the death of some of the parties, the suit is abated, which occasions great expense to the suitors: For prevention whereof,

SECT. 1. *Be it enacted by the governor, council and assembly,* That in all actions to be commenced in any court of record, from and after the twentieth day of June one thousand seven hundred and sixty-five, if any plaintiff happen to die, after the entry of such action, or after an interlocutory judgment, or an appeal to a superior court be entered, and before final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff: and if the defendant die after such entry, or interlocutory judgment or appeal entered, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant: And the plaintiff, or if he be dead, after such entry, interlocutory judgment or appeal, his executors or administrators shall, and may have a *scire facias* against the defendant, if living, after such entry interlocutory judgment or appeal, or if he died after, then against his executors or administrators, to shew cause why damages in such actions should not be assessed and recovered, by him or them; and if such defendant, his executors or administrators, shall appear at the return of such writ, and shall not shew or allege any matter, sufficient to arrest the final judgment, or being returned, warned, or upon the *scire facias* it be returned, that the defendant, his executors or administrators, had nothing whereby to be summoned, or could not be found in the province, shall make default, that thereupon a writ of inquiry of damages shall be awarded, which being executed and returned, judgment final shall be given for the said plaintiff, his executors or administrators, prosecuting such writ of *scire facias*, against such defendant, his executors or administrators respectively.

SECT. 2. *And be it further enacted, by the authority aforesaid,* That if there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such actions shall survive, to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the

writ or action shall not be thereby abated ; but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

Repealed by act June 20, 1792. p. 479.

Passed 8
Geo. 3. Feb.
26, 1768.

AN ACT to enable any plaintiff in review of any action against a person not an inhabitant, nor having any estate in this province which can be come at to be attached, to serve the writ on the attorney or agent of the defendant named in such writ.

WHEREAS there is no direction given by any law of this province, how a writ of review on any person, not an inhabitant of this province, who has no visible estate that may be attached, and when a personal service cannot be made which gives such absent party the liberty of reviewing a judgment, which the party living or residing in the province has not, which is not equitable ;

For remedy whereof,

Be it enacted by the governor, council, and assembly, That any plaintiff in review, against any person, who is not an inhabitant, or not resident in this province, may cause the writ of review to be served on the agent or attorney, who endorsed the original writ, if such defendant in review was originally plaintiff ; or in case such person was originally defendant, then on the attorney who appeared for the said defendant at the trial when the judgment reviewed was recovered, and it shall be adjudged a good service to read a writ of summons to such attorney, or by leaving a copy of the writ at such attorney's dwelling house or last and usual place of abode, and such service shall be adjudged legal notice, and service of such writ of review, whether there be one or more parties, plaintiffs or defendants.

Repealed by act June 20, 1792. p. 480.

Passed July
5, 1776.

*AN ACT for establishing courts of law for the administration of Justice within this Colony, passed July 5, 1776.**

Repealed by act of June 20, 1792, p. 480.

* This act established a superior court, an inferior court, and a court of general sessions of the peace, with the same jurisdiction and authority the former courts held and exercised ; and transferred the business from the former courts, to those established by the act.

In the first section is this clause, (the only one which is not to be found in the former acts,) viz.

“ If any person or persons who is an inhabitant of this colony, or otherwise shall commence any action or actions upon any endorsed note or notes, bill or bills of exchange against any defendant or defendants in any court in this colony, other than that county wherein such defendant or defendants live, the court before whom the same shall be brought or tried, shall tax in any suit for the plaintiff no more for travel than twenty miles, except in such cases where the suit and benefit thereof do *bona fide* belong to the person or persons who bring the same, and who actually travel to the court to which such suit shall be brought.”

*AN ACT to restrain the taking excessive Usury.*9 Geo. 3.
March 1769.

WHEREAS the taking excessive interest for the loan of money is a discouragement to trade, labour and industry, when the usurer makes as much profit by his money only, as the fair dealer, the honest husbandman and ingenious artificer, can by their money, time and labour ; and is often the occasion of great oppression by taking the advantage of the necessities and exigencies of such persons ; Therefore,

SECT. 1. *Be it enacted by the governor, council and assembly,* That no person or persons whomsoever, from and after the tenth day of March, one thousand seven hundred and sixty nine, upon any contract which shall be made, shall take either directly or indirectly, for the loan of any money, wares, merchandise, or any other personal estate whatsoever, above the value of six pounds for the use and forbearance of one hundred pounds for a year, and after that rate for a greater or less sum, or for a longer or shorter time ; and all bonds, contracts, mortgages and assurances whatsoever made after the time aforesaid for the payment of any principal or money lent or covenanted to be lent upon or for usury, whereupon or whereby there shall be reserved or taken above the rate of six pounds in the hundred as aforesaid, shall be utterly void : And all and every person and persons whomsoever, who shall after the time aforesaid, upon any contract, take, accept and receive by way or means of any corrupt bargain, loan, exchange, or by covin, or deceitful conveyance, or by any other way or means whatsoever, for the forbearing or giving day of payment for one whole year, of and for their money or other personal estate whatsoever, above the sum of six pounds for the forbearance of one hundred pounds for a year, and so after that rate for a greater or less sum, or for a longer or shorter time, shall forfeit and lose for every such offence, the full value of the goods and moneys, or other things so lent, exchanged, sold or agreed : one moiety thereof to his majesty for the use of this government, and the other moiety to him or them who shall inform and sue for the same, with cost.

And whereas persons who may be disposed to take exorbitant interest, may, and often do transact the matter in so private a manner that it is difficult to prove the truth of the fact ; Therefore,

SECT. 2. *Be it enacted,* That when any person or persons, shall, after the tenth day of March aforesaid, be sued on any bond, contract, mortgage or any assurance whatsoever, given or made after that time, for the payment of any money, goods or personal estate whatsoever, whereon or whereby any sum is given, secured or taken, for the forbearing or giving day of payment, for a longer or shorter time ; then in such case, (the creditor being alive,) if the debtor or debtors shall come into court where the cause is to be

tried, and shall offer to make oath, and if required by the court, actually swear to the same, that there is taken, received or secured, by such bond, contract, or mortgage or assurance, above the rate of six pounds in the hundred for the forbearance of the same, whether it be for money or other things, for one year, and so after that rate for any greater or less sum, or for a longer or shorter time; or that the creditor or creditors have received more than after the rate of six pounds in the hundred for the forbearance or loan of any sum of money, or other personal estate, or thing sued for per annum, such bond, contract, mortgage or assurance shall be utterly void, and the debtor fully and absolutely discharged forever, of and from such demand; unless the creditor or creditors will bona fide swear that he, she or they have not directly or indirectly willingly taken or received more than after the rate of six per cent. per annum, for forbearance, or giving day of payment. And that by such bond, contract, mortgage, or assurance, there is not reserved, secured or taken more than after the rate of six per cent. per annum for forbearance or giving day of payment for the money, goods, things sued for or demanded.

Provided, nothing in this act shall extend to the letting of cattle or other usages of like nature in practice among farmers or maritime contracts among merchants, as bottomry or course of exchange as hath been heretofore used.

Provided, nevertheless, the operation of this act shall be suspended till his majesty shall have signified his royal pleasure concerning his allowance thereof.

This act was allowed by his Majesty, and the allowance published here March 6, 1771.

Repealed by act June 20, 1792, p. 480.

AN ACT prohibiting any persons from pitching or hauling up any sea weed or rock weed at the sea shore in Hampton in the night, passed June 12, 1739.

See p. 400, note.—This act does not seem to have been printed.

AN ACT to repeal such parts of the several acts of this state as impose an excise on spirituous liquors and other articles, passed January 28, 1791.

It is conceived that all acts imposing excises were specified in and repealed by the act of June 20, 1792, p. 473.

AN ACT to secure the town of Portsmouth from damage by fire, passed June 23, 1814.

[SPECIAL.]

RESOLVE exempting the military guard at the state prison from doing duty in the militia, passed June 23, 1813.

[SPECIAL.]

RESOLVE respecting the religious instruction of the convicts in the state prison, passed at June session, 1814.

[SPECIAL.]

AN ACT to authorize the managers of Harvard College Lottery to vend their tickets in said Lottery in this state, passed June 14, 1808.

[SPECIAL.]

WHEREAS the holding of the courts of probate of wills in the county of Rockingham, at any one fixed place has been found to be very inconvenient to many of the citizens of said county ; Therefore,

Be it resolved, That the probate courts for said county be in future held at the respective times and places hereafter mentioned, viz.—

At Portsmouth on the third Wednesdays of the months of February, June and October. At Exeter on the third Wednesdays of the months of March, July and November. At Londonderry on the third Wednesdays of the months of April, August and December. And at Epsom on the third Wednesdays of the months of May, September, and January, annually : and that the judge of probate take notice and govern himself accordingly.

Passed January 18, 1790.

The foregoing is printed from the journals. It is believed that it never was printed in any edition of the statutes.—Had it occurred sooner, as it is still in force, it would have been introduced at p. 206.

**AGGREGATE AMOUNT OF PERSONS, AGREEABLY TO
ENUMERATIONS MADE IN 1790, 1800, 1810.**

	1790.	1800.	1810.	
New-Hampshire,	141,885	183,858	214,460	
Massachusetts,	378,787	422,845	472,040	} 700,745
Maine,	96,540	151,719	228,705	
Connecticut,	237,946	251,002	261,942	
Rhode-Island,	68,825	69,122	76,931	
Vermont,	85,539	154,465	217,895	
New-York,	340,120	586,050	959,049	
New-Jersey,	184,139	211,149	245,562	
Pennsylvania,	434,373	602,365	810,091	
Delaware,	59,094	64,273	72,674	
Maryland,	319,728	349,692	380,546	
Virginia,	747,610	886,149	974,622	
North-Carolina,	393,751	478,103	555,500	
South-Carolina,	249,973	345,591	415,115	
Georgia,	82,548	162,686	252,433	
Kentucky,	73,677	226,959	406,511	
Tennessee,*	35,691	105,802	261,727	
Ohio,	—	45,365	230,760	
			7036,563	
Orleans,	—	—	76,556	
Indiana,	—	5,641	24,520	
Mississippi,	—	8,850	40,352	
Louisiana,	—	—	20,845	
Illinois,	—	—	12,282	
Michigan,	—	—	4,762	
Columbia,	—	—	24,023	
	3929,326	5172,312	7239,903	203,340

* Then called the South Western Territory. It was admitted into the union June 1, 1796, by the name of Tennessee.

PRINCIPAL CITIES IN UNITED STATES.

	1790	1800	1810
<i>Boston</i> *	18,038	24,937	33,250
<i>New-York City and County</i> †	33,131	60,489	96,373
<i>Philadelphia City</i>	28,522	41,220	53,722
<i>Suburbs</i>	13,998	26,591	35,265
	42,520	67,811	88,987
<i>Remainder of County</i>	11,871	13,198	22,223
<i>Baltimore City and Precincts</i>	13,503	26,514	35,583
	10,972
<i>Charleston</i>	16,359	18,824	24,711
<i>New-Orleans City and Suburbs</i>			17,242
<i>Precincts</i>	7,310
			24,552
<i>Washington City</i>	8,208

* Exclusive of the islands in the harbour which in 1790 contained 282, and in 1810, 537 inhabitants. In 1800 the islands were included.

† In 1790, 803 of this number were of the county.

SCHEDULE

OF THE WHOLE NUMBER OF PERSONS IN THE STATE OF
NEW-HAMPSHIRE.

ROCKINGHAM.

	No. in 1790.	1800.	1810.
Allenstown,	254	315	346
Atkinson,	479	474	556
Bow,	568	719	729
Brentwood,	976	899	905
Candia,	1040	1186	1290
Canterbury,	1038	1114	1526
Chester,	1902	2046	2030
Chichester,	491	775	951
Concord,	1747	2052	2393
Deerfield,	1619	1878	1851
East-Kingston,	358	392	442
Epping,	1233	1121	1182
Epsom,	799	1034	1156
Exeter,	1722	1727	1759
Gosport,	93	85	72
Greenland,	634	548	592
Hampstead,	724	790	738
Hampton,	853	875	990
Hamptonfalls,	541	519	570
Hawke,	420	389	412
Kensington,	800	776	781
Kingston,	906	785	746
Londonderry,	2622	2650	2786
Loudon,	1084	1279	1472
New-Castle,	534	524	592
Newington,	542	481	508
Newmarket,	1137	1027	1061
Newton,	530	450	454
Northfield,	606	925	1057
North-Hampton,	657	653	651
Northwood,	744	950	1095
Nottingham,	1068	964	1063
Pelham,	791	918	998
Pembroke,	956	982	1153
Pittsfield,	883	987	1050
Plaistow,	521	459	424
Poplin,	493	403	462
Portsmouth.	4720	5339	6934

APPENDIX.

	1790.	1800.	1810.
Raymond,	727	808	898
Rye,	865	890	1020
Salem,	1218	1077	1179
Sandown,	561	501	504
Seabrook,	715	628	774
South-Hampton,	448	387	427
Stratham,	382	890	874
Windham,	663	751	742
	<hr/>	<hr/>	<hr/>
	43,169	45,427	50,175

STRAFFORD.

Alton,*	445	721	1279
Barnstead,	807	1161	1477
Barrington,	2470	2773	3564
Brookfield,		504	657
Burton,†	141	264	194
Center-Harbor,		263	349
Conway,	574	705	1080
Dover,	1998	2062	2228
Durham,	1247	1126	1449
Eaton,	253	381	535
Effingham,	154	451	876
Farmington,		1029	1272
Gilmanton,	2613	3752	4338
Lee,	1029	978	1329
Madbury,	592	544	582
Meredith,	881	1609	1940
Middleton,	617	431	439
Milton, (<i>taken from Rochester.</i>)			1005
Moultonborough,	565	357	994
New-Durham,	554	742	388
New-Hampton,	652	1095	1293
Ossipee,	339	804	1205
Ossipee-Gore,		339	125
Rochester,	2857	2646	2418
Sanbornton	1587	2695	2884
Sandwich,	905	1413	2232
Somersworth,	943	932	878
Tamworth,	266	757	1134
Tuftonborough,	109	357	709
Wakefield,	646	835	1166
Wolfborough,	447	941	1376
Stark's and Sterling's locations,	51	50	
	<hr/>	<hr/>	<hr/>
	23,742	32,614	41,595

* Formerly called New-Durham Gore.

† Formerly belonged to Grafton county.

HILLSBOROUGH.

	1790.	1800.	1810.
Amherst,	2369	1470	1554
Andover,	645	1133	1259
Antrim,	528	1059	1277
Bedford,	898	1182	1296
Boscawen,	1108	1414	1829
Bradford,	217	740	1034
Brookline,*	338	454	538
Deering,	928	1244	1363
Dunbarton,	917	1222	1256
Dunstable,	632	862	1049
Fishersfield,	331	526	563
Francestown,	982	1355	1451
Goffstown,	1275	1612	2000
Greenfield,		934	980
Hancock,	634	1120	1184
Henniker,	1127	1476	1608
Hillsborough,	798	1311	1592
Holles,	1441	1557	1529
Hopkinton,	1715	2015	2216
Kearsarge-Gore,	103	179	125
Litchfield,	357	372	382
Lyndeborough,	1280	976	1074
Manchester,†	362	557	615
Mason,	922	1179	1077
Merrimac,	819	926	1046
Milford,		939	1117
Mount-Vernon,‡		680	762
New-Boston,	1202	1491	1619
New-Ipswich,	1241	1266	1395
New-London,	311	617	692
Nottingham West,	1064	1267	1376
Peterborough,	861	1333	1537
Salisbury,	1372	1767	1913
Sharon,	259	428	446
Society-Land,	319	146	199
Sutton,	520	878	1328
Temple,	747	867	941
Warner,	863	1569	1838
Weare,	1924	2517	2634
Windsor,§	120	249	236

* Formerly called Raby.

† Formerly called Derryfield.

‡ Formerly a part of Amherst.

§ Formerly called Campbell's Gore

APPENDIX.

	1790.	1800.	1810.
Wilton,	1105	1010	1017
Wilmot, *			298
Duxbury,	169		
Derryfield Gore,	30		
Lyndeborough Gore,	38		
	<hr/> 32,871	<hr/> 43,899	<hr/> 49,249

CHESHIRE.

Acworth,	704	1376	1523
Alstead,	1111	1666	1694
Charlestown,	1093	1364	1501
Chesterfield,	1905	2161	1839
Claremont,	1435	1889	2094
Cornish,	982	1268	1606
Croydon,	537	984	862
Dublin,	901	1188	1184
Fitzwilliam,	1038	1240	1301
Gilsum,	298	484	513
Goshen,		383	563
Hinsdale,	522	634	740
Jaffrey,	1235	1341	1336
Keene,	1314	1645	1646
Langdon,	244	484	632
Lempster,	415	729	854
Marlborough,	786	1185	1142
Marlow,	313	543	566
New-Granatham,	333	713	864
Newport,	780	1266	1427
Packersfield,†	721	977	1076
Plainfield,	1024	1435	1463
Richmond,	1380	1390	1290
Rindge,	1143	1196	1226
Springfield,‡	210	570	814
Stoddard,	701	1148	1132
Surry,	448	569	564
Sullivan,	220	488	516
Swanzey,	1157	1271	1400
Unity,	538	902	1044
Walpole,	1245	1743	1894
Washington,	545	819	820
Wendell,	267	355	447
Westmoreland,	2018	2066	1937
Winchester,	1209	1413	1478
	<hr/> 28,772	<hr/> 38,825	<hr/> 40,988

* Composed of part of New-London and Kearsarge.

† Lately changed to Nelson.

‡ Formerly Protectworth.

GRAFTON.

	1790.	1800.	1810.
Alexandria,	298	303	409
Bath,	493	825	1316
Bethlehem,		171	422
Bridgewater,	281	664	1104
Campton,	395	635	873
Canaan,	483	835	1094
Concord,	313	663	1126
Coventry,	88	69	162
Danbury,	111	165	345
Dorchester,	175	349	537
Ellsworth,			142
Enfield,	724	1121	1291
Franconia,	72	129	358
Grafton,	403	682	931
Groton,*	373	391	549
Hanover,	1380	1912	2135
Haverhill,	552	805	1105
Hebron,		281	563
Holderness,†	329	531	835
Landaff,	292	461	650
Lebanon,	1180	1574	1808
Lyme,	816	1318	1670
Lincoln,	22	41	100
Littleton,	96	381	873
Lyman,	202	533	948
New-Chester,	312	615	895
Orange,	131	203	229
Orford,	540	988	1265
Peeling,		83	203
Piermont,	426	670	877
Plymouth,	625	743	937
Rumney,	411	624	765
Thornton,	1385	535	794
Warren,	206	336	506
Wentworth,	241	488	645
Trecothick,		47	
	<hr/> 12,449	<hr/> 20,171	<hr/> 28,462

COOS.

Adams,		180	244
Bartlett,	248	548	436
Brettonwoods,		18	12
Chatham,	58	183	201

* Formerly called Cockermouth.

† Formerly called New-Holderness.

APPENDIX.

	1790.	1800.	1810.
Cockburne,*	26	109	142
Colebrook,†	29	160	325
Dixville			12
Dummer,			7
Dalton,	14	62	235
Durand,			62
Erroll,			38
Jefferson,		112	197
Kilkenny,		18	28
Lancaster,	161	440	717
Northumberland,	117	205	281
Piercy,	48	140	211
Stratford,	146	281	339
Shelburne and Addition,	35	45	176
Stewartstown,		99	186
Paulsborough,			14
Warner's Patent,	} 94	} 58	20
Parker's Location,			8
Nash and Sawyer's Location,			9
Hart's Location,			35
Whitefield,			51
Publick Land,			5
	<hr/> 882	<hr/> 2,658	<hr/> 3,991

—♦—

RECAPITULATION.

Rockingham,	43,169	45,427	50,175
Strafford,	23,742	32,878§	41,595
Hillsborough,	32,871	43,899	49,249
Cheshire,	28,772	38,825	40,983
Grafton,	12,449 }	20,171 }	28,462
Coos,†	882 }	2,658 }	3,991
	<hr/>	<hr/>	<hr/>
Total	141,885	183,858	214,460

* Lately changed to Columbia.

† Formerly called Colburne.

‡ Incorporated Dec. 24, 1803.

§ In the footing of Strafford, p. 632, year 1800, the numbers of Burton should have been added, which would make total 32,878 instead of 32,614.

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Acts and titles of acts relative to the assessing and collecting of pub- lick taxes from July 2, 1776, to June 24, 1814. This compre- hends acts granting taxes—establishing the proportion to be as- sessed on each town—the rates at which polls and rateable estates shall be valued—the method of making taxes, and prescrib- ing the powers and duties of selectmen and collectors. All which are either special, or are supposed to be repealed	510—554
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Acts relative to the administration of justice—courts—process and trials, &c. passed before 1791	602
Resolve establishing the times and places of holding the probate court in the county of Rockingham	627

ERRATA.

PRINTED EDITION.

ORIGINALS.

PAGE. LINE.

44	25 in note, the the 23d	the 22d
66	2 after <i>the</i>	after
	40 justice	justices
114	31 deposition	depositions
182	15 land	lands
190	27 interest of freeholds	interests of freeholds—it should be <i>interests of freehold</i>
270	16 follows	follow
284	30 to the said	to said
302	21 of such court	of the court

In the following the printed copy agrees with the original, though the latter seems not to be correct.

155	36 addition <i>of</i> an act
	27 <i>for</i> his plaint
213	23 <i>attachments</i>
249	42 <i>cause</i>

In the following the printed edition varies from original, the latter not being deemed correct.

165	41 cause of suit	cause or suit
269	10 buildings	building
180	3 or altering or sawing	"or altering the altering or sawing."

Mistakes in paging.

142	for 242
155	255
337	437

Variations of orthography are not noted.—They are numerous.

In many of the originals the sections are not marked; where they are, it is sometimes Section, Sec. § I. II. &c.

NOTE. At the end of the act providing for posthumous children, p. 569, of the appendix, the following clause should have been added, viz.

"Provided that nothing in the law shall extend to any estate disposed of by will already settled."

I N D E X.



	PAGE.		PAGE.
ABATEMENT , defect of form, &c.		ADMINISTRATION , with will an-	
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